

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA

* * * * *

B.P.J., by her next friend and	*
mother, HEATHER JACKSON,	*
Plaintiffs	* Case No.
vs.	* 2:21-CV-00316
WEST VIRGINIA STATE BOARD OF	*
EDUCATION, HARRISON COUNTY BOARD OF*	
EDUCATION, WEST VIRGINIA SECONDARY *	
SCHOOL ACTIVITIES COMMISSION, W.	*
CLAYTON BURCH in his official	*
capacity as State Superintendent,	*
and DORA STUTLER in her official	*
capacity as Harrison County	*
Superintendent, PATRICK MORRISEY in*	

VIDEOTAPED DEPOSITION OF

DEANNA ADKINS, M.D.

March 16, 2022

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his official capacity as Attorney *
 General, and THE STATE OF WEST *
 VIRGINIA, *
 Defendants *

* * * * *
 VIDEOTAPED DEPOSITION OF
 DEANNA ADKINS, M.D.
 March 16, 2022

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DEPOSITION
 OF

DEANNA ADKINS, M.D., taken on behalf of the Intervenor
 herein, pursuant to the Rules of Civil Procedure, taken
 before me, the undersigned, Lacey C. Scott a Court
 Reporter and Notary Public in and for the Commonwealth
 of Pennsylvania, taken via videoconference, on
 Wednesday, March 16, 2022 at 9:06 a.m.

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I N D E X

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STIPULATION

(It is hereby stipulated and agreed by and between counsel for the respective parties that reading, signing, sealing, certification and filing are not waived.)

PROCEEDINGS

VIDEOGRAPHER: Good morning. We're now on the record. My name is Jacob Stock. I'm a Certified Legal Video Specialist employed by Sargent's Court Reporting Services. Today's date is March 16th, 2022 and the current time is 9:06 a.m. Eastern Standard Time. This video is being taken place remotely by video conference. The caption of this case is in the United States District Court for the Southern District of West Virginia, Charleston Division, B.P.J., et al. V. West Virginia State Board of Education, et al. Civil Action Number 2:21-CV-00316. The name of the witness is Deanna Adkins. Will the attorney present state their names and the parties they represent for the record?

ATTORNEY BROOKS: Roger Brooks taking the deposition with Alliance Defending Freedom and

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representing the intervenor.

ATTORNEY HOLCUMB: Christina Holcumb for intervenor.

ATTORNEY DUCAR: Timothy Ducar for intervenor.

ATTORNEY CSUTOROS: Rachel Csutoros for intervenor.

ATTORNEY TRYON: David Tryon at the Attorney General's Office in West Virginia, and I represent the State of West Virginia.

ATTORNEY MORGAN: Kelly Morgan with Bailey and Wyant on behalf of West Virginia Board of Education and Superintendent Burch.

ATTORNEY DENIKER: Good morning, everyone. Susan Deniker representing Defendant Harrison County Board of Education and Superintendent Doris Stutler.

ATTORNEY GREEN: Roberta Green, Shuman McCuskey Slicer. I'm here on behalf of West Virginia Secondary School Activities Commission.

ATTORNEY BORELLI: And this is Tara Borelli with Lambda Legal on behalf of the Plaintiff, B.P.J..

ATTORNEY SWAMINATHAN: This is Sruti

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Swaminathan also from Lambda Legal also on behalf of Plaintiff.

ATTORNEY HARTNETT: And this is Kathleen Hartnett from Cooley on behalf of the Plaintiff.

ATTORNEY BARR: Andrew Barr, also from Cooley on behalf of the Plaintiff.

ATTORNEY REINHARDT: This is Elizabeth Reinhardt, also with Cooley, also for Plaintiff.

ATTORNEY BLOCK: Josh Block from ACLU on behalf of Plaintiff.

VIDEOGRAPHER: If that is everybody, then can I ask the notary to swear in the witness?

DEANNA ADKINS, M.D.,

CALLED AS A WITNESS IN THE FOLLOWING PROCEEDING, AND HAVING FIRST BEEN DULY SWORN, TESTIFIED AND SAID AS FOLLOWS:

VIDEOGRAPHER: And at this time the notary may be dismissed and we can begin.

ATTORNEY BROOKS: Thank you, ma'am.

NOTARY:

Thank you. Have a good day everybody.

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EXAMINATION

BY ATTORNEY BROOKS:

Q. For convenience --- good morning, Dr. Adkins,

A. Good morning.

Q. --- and thank you for your time here today.

ATTORNEY BROOKS: For convenience, let me start out by marking three exhibits. As Adkins Exhibit Number 1, I would like to mark the Declaration and expert report of Deanna Adkins, which in the file will be made available to the court reporter is tab two. And I have copies for the witness and for counsel. I would also like to mark as Adkins Exhibit 2 what we have provided as tab three, which is the CV of the witness, Deanna Adkins.

(Whereupon, Adkins Exhibit 1, Report of Deanna Adkins, M.D., was marked for identification.)

(Whereupon, Adkins Exhibit 2, Curriculum Vitae, was marked for identification.)

THE WITNESS: If you don't mind, it's

1 Deanna (corrects pronunciation).

2 ATTORNEY BROOKS: Deanna. I certainly
3 don't mind. I want to get that right. Sorry about
4 that.

5 THE WITNESS: Thank you.

6 ATTORNEY BROOKS: And I would like to
7 admit as Exhibit 3 the rebuttal report submitted by Dr.
8 Adkins. I will provide copies of that to the witness.
9 Just write the number on it.

10 THE WITNESS: Thank you.

11 ATTORNEY BROOKS: We'll have occasion to
12 come back to those.

13 ---

14 (Whereupon, Adkins Exhibit 3, Rebuttal
15 Report, was marked for identification.)

16 ---

17 BY ATTORNEY BROOKS:

18 **Q. Dr. Adkins, let me ask you to find amongst the**
19 **three documents I have given you Exhibit 2, which is**
20 **your Curriculum Vitae.**

21 VIDEOGRAPHER: Counsel, do you want that
22 pulled up on the shared screen?

23 ATTORNEY BROOKS: That's up to the
24 remote. You should certainly make it available.

1 Obviously, everybody here in the deposition room has it.

2 BY ATTORNEY BROOKS:

3 **Q. Dr. Adkins, let me ask you to turn to page two**
4 **of Exhibit 2, your Curriculum Vitae. And you have there**
5 **a list headed professional training and academic career.**
6 **Do you see that?**

7 A. Yes.

8 **Q. Am I right that you have done either residencies**
9 **or fellowships in the field of pediatrics and**
10 **endocrinology?**

11 ATTORNEY BORELLI: Objection, form.

12 THE WITNESS: I've done both, yes,
13 residency and fellowship in pediatrics followed by
14 endocrinology, yes.

15 BY ATTORNEY BROOKS:

16 **Q. And you have not done either a residency nor a**
17 **fellowship in psychiatry. Have you?**

18 ATTORNEY BORELLI: Objection to form.

19 THE WITNESS: No.

20 BY ATTORNEY BROOKS:

21 **Q. And you don't have any degree in child or**
22 **adolescent developmental psychology, do you?**

23 A. No.

24 **Q. Do you consider yourself trained and**

1 **professionally competent in using the American**
2 **Psychiatric Association Diagnostic and Statistical**
3 **Manual to make child and adolescent mental illness or**
4 **psychiatric diagnoses generally outside the scope of**
5 **gender dysphoria?**

6 ATTORNEY BORELLI: Objection, form.

7 THE WITNESS: In pediatrics, we're
8 trained to make some of the diagnoses that are
9 appropriate for a pediatrics provider to treat.

10 BY ATTORNEY BROOKS:

11 **Q. So is that a --- do you consider yourself**
12 **generally competent in making diagnosis of child or**
13 **adolescent mental illness according to the standards of**
14 **DSM-V?**

15 ATTORNEY BORELLI: Objection, form.

16 THE WITNESS: For the things I was
17 trained in and have continued to get CME in, I do.

18 BY ATTORNEY BROOKS:

19 **Q. And you do not have any training in sports**
20 **physiology, do you?**

21 ATTORNEY BORELLI: Objection, form.

22 THE WITNESS: Nothing specific.

23 BY ATTORNEY BROOKS:

24 **Q. You would consider that to be outside your field**

1 **of professional expertise. Am I right?**

2 ATTORNEY BORELLI: Objection, form.

3 THE WITNESS: There is probably some over
4 lap given that physiology and endocrinology are very
5 important and tied and interlinked, but I couldn't tell
6 you since I don't know where the overlap might be.

7 BY ATTORNEY BROOKS:

8 **Q. You yourself have not done any research related**
9 **to sports physiology, have you?**

10 ATTORNEY BORELLI: Objection, form.

11 THE WITNESS: Not myself, no.

12 BY ATTORNEY BROOKS:

13 **Q. Nor have you done any research relating to the**
14 **impact of hormones on athletic capability?**

15 ATTORNEY BORELLI: Objection, form.

16 THE WITNESS: Not personally.

17 BY ATTORNEY BROOKS:

18 **Q. Do you consider yourself to be an expert in any**
19 **sense in the question of what is or is not fair?**

20 ATTORNEY BORELLI: Objection, form.

21 THE WITNESS: Well, that's a broad
22 question. That's ---.

23 BY ATTORNEY BROOKS:

24 **Q. Do you consider yourself an expert in the**

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1 **concept of fairness?**

2 ATTORNEY BORELLI: Objection.

3 THE WITNESS: I believe that I can
4 recognize fairness and have a concept that would be
5 appropriate for someone of my age.

6 BY ATTORNEY BROOKS:

7 **Q. Do you believe that you have expertise and**
8 **fairness beyond that from ordinary human experience?**

9 ATTORNEY BORELLI: Objection, form.

10 THE WITNESS: I would have to see what
11 that would look like to say yes or no to that question.

12 BY ATTORNEY BROOKS:

13 **Q. All right.**

14 **Let's look at your list of publications, which**
15 **is on page three of Exhibit 2, your curriculum vitae.**
16 **And under the --- the page three and continuing onto**
17 **page four is a section titled Refereed Journal.**

18 **Correct?**

19 A. Yes.

20 **Q. And by Refereed Journal --- we'll both have to**
21 **remember that. And also the court reporter may from**
22 **time to time tell one of us to slow down. These all**
23 **just ordinary parts of the process, just forgetting to**
24 **speak up or to go slow enough to be transcribed.**

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1 **Q. Thank you.**

2 A. Roughly.

3 **Q. Roughly?**

4 **I see an article here, number three on the**
5 **list, Tejwani, from Tejwani, et al, and you are one of**
6 **the authors shown from year 2017. Do you see that?**

7 A. Yes.

8 **Q. And that relates to disorders of sexual**
9 **development.**

10 **Am I correct?**

11 A. Yes.

12 **Q. And am I correct that that article has ---**
13 **doesn't speak at all to the questions of gender.**

14 **Does it?**

15 ATTORNEY BORELLI: Objection to form.

16 THE WITNESS: That, no.

17 BY ATTORNEY BROOKS:

18 **Q. Not correct?**

19 A. I'm sorry, no, it doesn't speak.

20 **Q. Just to be clear for the record, the Tejwani et**
21 **al. article which you are a co-author does not speak at**
22 **all to questions of gender identity.**

23 **Correct?**

24 ATTORNEY BORELLI: Objection, form.

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1 **Can you explain for the record what you mean by**
2 **refereed journal, what the significance of that heading**
3 **is?**

4 A. Yes. So for those journals they are reviewed by
5 an editor, and those are peer reviewed as well.

6 **Q. So these --- this would be the list of your**
7 **publications that would --- you would consider to be**
8 **peer reviewed publications?**

9 ATTORNEY BORELLI: Objection, form.

10 THE WITNESS: Looking at the date on the
11 front of this one, yes.

12 BY ATTORNEY BROOKS:

13 **Q. And that date is January 21st of this year,**
14 **2022.**

15 **Right?**

16 A. Yes.

17 **Q. And have you had any peer reviewed publication**
18 **appear since January 21st of this year?**

19 A. I have one that is --- that's in press for next
20 month.

21 **Q. And what is the title of that?**

22 A. I would have to review the title in my e-mail.
23 It's Clinical Simulation for Education of Nurse
24 Anesthesia in Gender Affirming Care.

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1 THE WITNESS: Correct.

2 BY ATTORNEY BROOKS:

3 **Q. And I see here a Lapinski, et al. article, the**
4 **4th item, from 2018, entitled Best Practices in**
5 **Transgender Health: A Clinician's Guide for Primary**
6 **Care.**

7 **Do you see that?**

8 A. Yes.

9 **Q. Am I correct that that article does not report**
10 **on any regional research by the authors?**

11 ATTORNEY BORELLI: Objection to form.

12 THE WITNESS: I believe that's true.

13 BY ATTORNEY BROOKS:

14 **Q. Are you the author of any peer reviewed papers**
15 **that report original clinical research relating to**
16 **gender identity or for transgender therapies?**

17 ATTORNEY BORELLI: Objection to form.

18 ATTORNEY BROOKS: I don't know who spoke
19 to the witness.

20 THE WITNESS: So gosh, I have a lot of
21 things that are in process. Let me give it a second.

22 ATTORNEY BORELLI: Take the time you need
23 to review that to answer the question fully.

24 THE WITNESS: Could you repeat the

1 question?

2 BY ATTORNEY BROOKS:

3 **Q. Yes. Are you the author of any published peer**
4 **reviewed papers that report original clinical research**
5 **relating to gender identity or transgender therapies?**

6 ATTORNEY BORELLI: Objection to form.

7 THE WITNESS: The item on number six
8 would be the closest. And it is talking with patients
9 about the gender identity and their experience of
10 transgender care, yes.

11 BY ATTORNEY BROOKS:

12 **Q. The --- that paper in particular is essentially**
13 **calling for research.**

14 **Am I correct?**

15 ATTORNEY BORELLI: Objection to form.

16 THE WITNESS: Yes.

17 BY ATTORNEY BROOKS:

18 **Q. It is not reporting on accomplished clinical**
19 **research, is it?**

20 ATTORNEY BORELLI: Objection, form.

21 THE WITNESS: So in that study we
22 actually did interview individuals as part of the study,
23 so it has --- it's done as a --- oh, Lord, words. I'm
24 going to find the word in a second. Not in like ---

1 particular patient, person.

2 BY ATTORNEY BROOKS:

3 **Q. Let me take you again to Exhibit 2 and page two**
4 **---**

5 ATTORNEY MORGAN: May I interrupt for a
6 moment.

7 ATTORNEY BROOKS: I'm sorry. Who's
8 speaking?

9 ATTORNEY MORGAN: Sure. This is Kelly
10 Morgan. I'm having a terrible time understanding the
11 witness. So before we go on is there any way to see if
12 we can --- it sounds extremely muffled. I'm only
13 catching like maybe half of the words.

14 ATTORNEY BROOKS: Most --- most of the
15 voice is coming through very clear on our end. I'm
16 going to move speaker so that paper shuffling is not as
17 likely to shuffle it. Beyond that, I think everybody in
18 this room will agree that we're speaking slowly and
19 clearly and, frankly, loudly. So I'm not sure there's
20 more we can do.

21 ATTORNEY BORELLI: And Kelly, for what it
22 is worth, I think I caught maybe half of your words. I
23 wonder if there is a connection issue on your end that
24 might be worth investigating.

1 more of a public health-based research approach where
2 you do not actual like counting of things like you would
3 do sort of --- search, but more around interviewing and
4 looking at quantitate versus qualitative. That's the
5 word I'm looking for. It's a qualitative study which is
6 typically done in public health programs or other public
7 health research.

8 **Q. All right.**

9 **Am I correct, Dr. Adkins, that you, yourself,**
10 **have not treated nor personally examined Plaintiff,**
11 **B.P.J.?**

12 ATTORNEY BORELLI: Objection, form.

13 THE WITNESS: That's correct.

14 BY ATTORNEY BROOKS:

15 **Q. And you don't have any direct knowledge as to at**
16 **what Tanner stage B.P.J. began puberty blockers.**

17 **Am I correct?**

18 A. I don't recall seeing that in any of the
19 documentation.

20 **Q. And you don't have any knowledge as to how**
21 **B.P.J.'s physiology or athletic capabilities compare to**
22 **a genetic female of a similar age, do you?**

23 ATTORNEY BORELLI: Objection, form.

24 THE WITNESS: I haven't assessed the

1 ATTORNEY HARTNETT: I will just say for
2 the record, and others should speak up too because we
3 obviously want all counsel to hear the deposition. I
4 have been able to hear Mr. Brooks, the witness, and the
5 objections have been a bit more faint, but we have been
6 able to make them out so far.

7 ATTORNEY TRYON: This is Dave Tryon. I
8 share Kelly's frustration. I'm having difficulty
9 understanding the witness, so ---.

10 ATTORNEY BROOKS: And similarly, Dave,
11 when we hear you, you're a little bit more muffled than
12 some of the other voices. So the issue, perhaps the
13 mics and speakers on the other end, but there's nothing
14 more we can do at this end.

15 ATTORNEY GREEN: This is Roberta Green,
16 and I'm also having trouble hearing. And I'm
17 considering maybe --- you know, maybe muting my computer
18 and calling in on my phone and see if I can hear better.
19 I think when the doctor looks down to look at documents
20 we lose some of that. So I'll report in if calling in
21 on my phone is a breakthrough, but I appreciate you all.
22 Thank you.

23 ATTORNEY DENIKER: Yes. Thank you. I'm
24 also having trouble. And I'm curious if the court

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1 reporter is having trouble. And if she's not, that's
2 good, but I just want to make sure that we --- that
3 everybody can hear.

4 COURT REPORTER: So my biggest issue is
5 people not saying their names when they're speaking. So
6 we just had a bunch of people and I really have no idea
7 who is sayin anything. I don't know who is making the
8 objections. And ma'am, with the mask on, it is hard to
9 understand you at times. I'm really like having to
10 really focus in on you. And the objections are coming
11 in quick. And I mean, there are definitely some
12 challenges, but I don't know.

13 ATTORNEY BORELLI: Well, in case this is
14 helpful, so this is Tara Borrelli with Lambda Legal on
15 behalf of the Plaintiff. I am the person defending the
16 deposition, so the objections will be coming from me, in
17 case that's helpful going forward.

18 COURT REPORTER: Yes.

19 ATTORNEY HARTNETT: This is Kathleen
20 Hartnett for the Plaintiff from Cooley. I was the first
21 person that spoke after someone raised the issue. I
22 believe Miss --- Ms. Morgan had raised the issue of the
23 ability to hear. And I would just say for the record
24 this is an in person deposition that was scheduled where

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1 to protect her health.

2 ATTORNEY BROOKS: And we did agree to
3 proceed in whatever way the witness wanted when it comes
4 to that, so we'll all just have to live with that as
5 part of these days.

6 May we proceed?

7 ATTORNEY TRYON: Yes.

8 BY ATTORNEY BROOKS:

9 **Q. If you have Exhibit 2 and on page two of that we**
10 **have professional training and academic career, which**
11 **towards the bottom includes your current two**
12 **appointments associated with Duke University.**

13 **Am I correct?**

14 A. Three.

15 **Q. I apologize. I see that. One is you're an**
16 **Associate Professor of Pediatrics.**

17 **Correct?**

18 A. Correct.

19 **Q. And you are the Director of the Duke Child and**
20 **Adolescent Gender Care Clinic?**

21 A. Correct.

22 **Q. And you are a Co-Director of the Duke Sexual and**
23 **Gender Health and Wellness Program.**

24 **Correct?**

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1 we had proposed it to be remote if parties saw fit to do
2 that. We're not objecting to it being in person. We're
3 --- obviously they're defending. And all parties had
4 the ability to attend in person if they chose to.

5 ATTORNEY BROOKS: And I --- I will ---
6 this is Roger Brooks taking the deposition. I will
7 suggest that we just agree by voice acclimation that
8 we're not going to cycle through all the names and try
9 to identify all the people who have chatted with us
10 about their reception and simply move on with the
11 deposition unless anybody objects to that.

12 ATTORNEY MORGAN: I have no objection to
13 that. This is Kelly Morgan. But is there any
14 possibility that the witness would be able to remove her
15 mask if everyone else is masked other than the
16 questioner? Like I --- I'm not having trouble hearing
17 anyone else other than the witness, and it just seems to
18 get muffled.

19 ATTORNEY BORELLI: I'm sorry, but I --- I
20 don't believe that's going to be an option. I mean,
21 this --- this is partly why a remote deposition would
22 have been our --- our preference, but Dr. Adkins
23 obviously has to take precautions because she is
24 continuing to see and treat patients. And so she needs

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1 A. Correct.

2 **Q. What is the total compensation you receive in**
3 **connection with those three appointments with Duke**
4 **University?**

5 ATTORNEY BORELLI: Objection, form.

6 THE WITNESS: Well, you want a number or
7 ---?

8 BY ATTORNEY BROOKS:

9 **Q. I do.**

10 A. I'm going to have to give an approximation.

11 **Q. And that's fine?**

12 A. Approximately, \$173,000 per year.

13 **Q. And that is your total compensation on a W-2**
14 **from Duke University?**

15 A. No. Duke University only pays me \$20,000 per
16 year. I work for the private Diagnostic Clinic, which
17 is our private practice, and they pay me the balance.

18 **Q. Okay.**

19 **And do you receive any other compensation in**
20 **connection with your work with patients in connection**
21 **with the Duke Child and Adolescent Gender Care Clinic?**

22 ATTORNEY BORELLI: Objection, form.

23 THE WITNESS: No.

24 BY ATTORNEY BROOKS:

1 **Q. Can you tell me what you earned in speaking fees**
2 **in 2021, approximately?**

3 ATTORNEY BORELLI: Objection, form.

4 THE WITNESS: In 2021? Is that what you
5 said?

6 BY ATTORNEY BROOKS:

7 **Q. I did.**

8 A. Let's see. I'm losing track of dates. I think
9 only like \$500.

10 **Q. And what were the total expert fees that you**
11 **received in 2021 in connection with serving as an expert**
12 **in litigation?**

13 ATTORNEY BORELLI: Objection, form.

14 THE WITNESS: Nothing.

15 BY ATTORNEY BROOKS:

16 **Q. And in 2021 did you receive any payments for any**
17 **reasons from any pharmaceutical company?**

18 ATTORNEY BORELLI: Objection, form.

19 THE WITNESS: No.

20 BY ATTORNEY BROOKS:

21 **Q. Let me ask you to look at Exhibit 1, which is**
22 **your expert report. And if you would turn --- if you**
23 **would turn to paragraph 37 of that report, paragraph 38.**
24 **And there you say when a child is born a sex assignment**

1 **is usually made based on the infant's externally visible**
2 **genitals. This designation is then recorded and usually**
3 **becomes the sex designation listed on the infant's birth**
4 **certificate. Do you see that language?**

5 A. I do.

6 **Q. And as a trained physician, can you tell us how**
7 **a sex assignment is usually made based on the infant's**
8 **external visible genitals?**

9 A. Yes. In most cases the external genitals will
10 have a form that looks typical to a male versus typical
11 to a female. And if there is a question, then I get
12 consulted, if there's something different.

13 **Q. And by typical to a male, for instance, you mean**
14 **what?**

15 A. So male external genitalia at birth typically
16 has a phallic structure, penis that is, of a certain
17 length most of the time. And then there's scrotum and
18 then there are usually testicles, although sometimes
19 they can be up or down in the scrotum.

20 **Q. And do you, yourself, have children?**

21 A. I do.

22 **Q. And you're aware that for quite a number of**
23 **years now, in fact, parents often learn of the sex of**
24 **their child before birth.**

1 **Correct?**

2 ATTORNEY BORELLI: Objection, form.

3 THE WITNESS: I have been aware that
4 ultrasonographers often tell people what they think they
5 are. And I'm also the one that has to tell the parents
6 that it is different when they're born and it is not
7 exactly accurate.

8 BY ATTORNEY BROOKS:

9 **Q. That is as a result of the quality of imaging on**
10 **ultrasound sometimes the wrong call is made on that?**

11 ATTORNEY BORELLI: Objection, form.

12 THE WITNESS: Possibly the quality of
13 imaging, the skill of the person. There are also
14 sometimes variations that aren't easily visible on
15 ultrasound.

16 BY ATTORNEY BROOKS:

17 **Q. You're are aware, are you not, that the genetic**
18 **sex of infant is, in fact, determinable by genetic**
19 **testing as early as the first trimester of pregnancy?**

20 ATTORNEY BORELLI: Objection to form.

21 THE WITNESS: The typical testing for
22 that is chromosomes, which are broad view and not
23 specific for the hundreds of genes that can change the
24 sex of the individual.

1 BY ATTORNEY BROOKS:

2 **Q. Well, my question was you are aware, are you**
3 **not, that the chromosomal sex of the infant is**
4 **determinable as early as the first trimester of**
5 **pregnancy?**

6 ATTORNEY BORELLI: Objection, form.

7 THE WITNESS: I'm sorry. I didn't hear
8 you say chromosomal. I thought you said biological. I
9 apologize.

10 BY ATTORNEY BROOKS:

11 **Q. I can't swear what I said the first time.**

12 ATTORNEY BROOKS: Let's ask the reporter
13 to read back the second question I asked. Is the court
14 reporter muted perhaps?

15 COURT REPORTER: One minute.

16 ATTORNEY BROOKS: Okay.

17 COURT REPORTER: You said genetic
18 testing. Do you want me to read the whole question?

19 ATTORNEY BROOKS: I do.

20 COURT REPORTER: You are aware, are you
21 not, that the genetic sex of an infant is determinable
22 by genetic testing as early as the first trimester of
23 pregnancy?

24 ATTORNEY BORELLI: Objection to form.

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1 COURT REPORTER: And again I just want to
2 say that the witness is hard to understand. There is
3 definitely a lot of muffling words coming through, you
4 know, just like in the sentence there might be two words
5 that I just have to like really --- I'm just struggling
6 over here with this mask. I can't see your lips moving,
7 so it's really hard, but --.

8 THE WITNESS: I'll slow down, but I was
9 sick earlier this week, and I'd really rather not share
10 that with anyone in the room. And I don't think that
11 they would like that, so ---.

12 BY ATTORNEY BROOKS:

13 **Q. Don't consider yourself pressured to take off**
14 **your mask. Just do what you can to speak clearly into**
15 **the microphone.**

16 ATTORNEY BORELLI: Thank you. And we
17 just moved the mic closer to the witness as well, so we
18 --- we hope that that will help make a difference.

19 ATTORNEY HARNETT: Excuse me. This is
20 Kathleen Hartnett from Cooley. I would like to ask
21 whether the videotaping that's happening now will allow
22 further transcription after the deposition?

23 VIDEOGRAPHER: Yes, that's --- the
24 videotape is picking up everything that --- I'm having

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1 ATTORNEY BORRELLI: Objection to form.

2 THE WITNESS: I'm not able to answer the
3 question yes or no.

4 BY ATTORNEY BROOKS:

5 **Q. You would agree that the genetic sex of an**
6 **infant is determined at the instant of conception?**

7 ATTORNEY BORELLI: Objection to form.

8 THE WITNESS: The actual Y chromosomes
9 are at that time, yes.

10 BY ATTORNEY BROOKS:

11 **Q. That's not something that a doctor has any**
12 **choice or could change at the time of birth?**

13 ATTORNEY BORELLI: Objection, form.

14 THE WITNESS: The chromosomes, no.

15 BY ATTORNEY BROOKS:

16 **Q. And you understand what I think we all learned**
17 **in perhaps sixth grade biology that an individual with**
18 **two X chromosomes, provided that there is no chromosomal**
19 **abnormality, is female female and an individual free of**
20 **abnormalities who has an X and a Y chromosome is male.**

21 **Correct?**

22 ATTORNEY BORELLI: Objection, form.

23 THE WITNESS: Free of any abnormalities,
24 yes.

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1 no troubles on my side, so it's picking up all of the
2 audio and everything.

3 ATTORNEY HARNETT: Thank you very much.

4 VIDEOGRAPHER: You're welcome.

5 ATTORNEY BROOKS: And rather than
6 re-reading the question, I'm just going to forget all
7 that and ask you a new question.

8 BY ATTORNEY BROOKS:

9 **Q. You are aware, are you not, that the chromosomal**
10 **sex of an infant nowadays can be determined as soon as**
11 **the first trimester of pregnancy?**

12 ATTORNEY BORELLI: Objection to form.

13 THE WITNESS: You can obtain the baseline
14 chromosomes, yes.

15 BY ATTORNEY BROOKS:

16 **Q. And that will tell you the chromosomal sex of**
17 **that infant?**

18 ATTORNEY BORELLI: Objection, form.

19 THE WITNESS: The --- not really a term
20 that is really precise as there's hundreds of genes that
21 can change that.

22 BY ATTORNEY BROOKS:

23 **Q. So you are not able to answer my question yes or**
24 **no?**

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1 BY ATTORNEY BROOKS:

2 **Q. And you also understand that in humans, like all**
3 **mammals, a gamete from a male and a gamete from a female**
4 **are necessary to create a fertilized egg in a new**
5 **individual?**

6 ATTORNEY BORELLI: Objection, form.

7 THE WITNESS: Can you read the very first
8 part of the question again, please?

9 BY ATTORNEY BROOKS:

10 **Q. You understand that in humans, as in all**
11 **mammals, a gamete from a male and a gamete from a female**
12 **are necessary to create a fertilized egg and a new**
13 **individual?**

14 ATTORNEY BORELLI: Same objection.

15 THE WITNESS: Yes.

16 BY ATTORNEY BROOKS:

17 **Q. Now, if you look at paragraph 41 in your**
18 **declaration ---**

19 A. Yes.

20 **Q. --- in paragraph 41 you state, quote, biological**
21 **sex, biological male or female are imprecise and should**
22 **be avoided. Do you see that?**

23 A. Yes.

24 **Q. And it is your view that the terms biological**

1 **male, biological female and biological sex are so**
 2 **imprecise as to be not useful from a medical point of**
 3 **view?**

4 ATTORNEY BORELLI: Objection, form.

5 THE WITNESS: In my practice we have to
 6 be more careful than that because I see quite a lot of
 7 individuals where that wouldn't be a very precise
 8 answer.

9 BY ATTORNEY BROOKS:

10 **Q. My question is is it your expert opinion, are**
 11 **you offering expert opinion in terms of biological sex,**
 12 **biological male and biological female are so imprecise**
 13 **as to not be medically useful?**

14 ATTORNEY BORELLI: Objection, form.

15 THE WITNESS: Yes.

16 ATTORNEY BROOKS: Let me mark as Exhibit
 17 4 what is tab 5, and that is the Endocrine Society
 18 Guidelines dated 2017, but the number of authors. The
 19 first name is Wiley Hembree.

20 ---

21 (Whereupon, Adkins Exhibit 4, 2017

22 Endocrine Society Guidelines, was marked
 23 for identification.)

24 ---

1 that date range, yes.

2 BY ATTORNEY BROOKS:

3 **Q. Have you met Dr. Cohen-Kettenis?**

4 A. No.

5 **Q. And she is associated with a highly respected**
 6 **institute in Amsterdam.**

7 **Am I right?**

8 A. I am not certain. I would have to look that up.

9 **Q. You don't know. You weren't invited to serve on**
 10 **the committee that drafted these guidelines, were you?**

11 ATTORNEY BORELLI: Objection, form.

12 THE WITNESS: There is an invitation
 13 extended to all Endocrine Society members. I did find a
 14 time. That was early in my work with this at that time.

15 BY ATTORNEY BROOKS:

16 **Q. If you look down on page one, about five lines**
 17 **from the bottom ---.**

18 A. Say it again.

19 **Q. Page one, five lines from the bottom?**

20 A. Yes.

21 **Q. Actually, let's go two more up and begin a**
 22 **sentence. There's a sentence that begins they require a**
 23 **safe and effective hormone regimen that will, one,**
 24 **suppress endogenous sex hormone secretion determined by**

1 ATTORNEY BROOKS: I'm handing that to the
 2 witness and to opposing counsel.

3 BY ATTORNEY BROOKS:

4 **Q. Dr. Adkins, this is a document that you cite in**
 5 **your expert report.**

6 **Correct?**

7 A. Correct.

8 **Q. And with which you are quite familiar?**

9 A. Correct.

10 **Q. Do you know Dr. Hembree?**

11 A. I spoke with him on the phone.

12 **Q. You would agree, would you not, that he's been**
 13 **prominent in the field of transgender medicine for**
 14 **decades?**

15 ATTORNEY BORELLI: Objection, form.

16 THE WITNESS: His publications, yes.

17 BY ATTORNEY BROOKS:

18 **Q. And another author is Peggy Cohen-Kettenis. Do**
 19 **you see that? She's the second author.**

20 A. Yes.

21 **Q. And likewise, she has been prominent in the**
 22 **field for at least 20 years?**

23 ATTORNEY BORELLI: Objection.

24 THE WITNESS: I've seen publications in

1 **the person's genetic/gonadal sex. Do you see that?**

2 A. I do.

3 **Q. And do you think you understand what's referred**
 4 **to by the term genetic/gonadal sex?**

5 ATTORNEY BORELLI: Objection, form.

6 THE WITNESS: Yes.

7 BY ATTORNEY BROOKS:

8 **Q. And what is your understanding of what that**
 9 **refers to?**

10 A. So that would include both the chromosomes as
 11 mentioned before, the broad XY, and it should include
 12 all of the other genetic mutations as well as what
 13 actual gonads are present in the person.

14 **Q. And this committee, these prominent researchers**
 15 **at least considered genetic/gonadal sex to be a**
 16 **meaningful and readily understandable binary**
 17 **classification.**

18 **Correct?**

19 ATTORNEY BORELLI: Objection, form.

20 THE WITNESS: That's not clear there and
 21 it is different from what you said before.

22 BY ATTORNEY BROOKS:

23 **Q. I try to make each question somewhat different**
 24 **from the one before, so yes. Let me ask a new question.**

This committee considered --- the committee that drafted these guidelines considered genetic/gonadal sex to be a meaningful and readily understandable classification.

Correct?

ATTORNEY BORELLI: Objection, form.

THE WITNESS: Yes. They didn't use the word chromosomal sex. And they included gonads which are also a part of the broad development of human reproductive biology.

BY ATTORNEY BROOKS:

Q. And in fact, you, yourself, quoted this language in your expert report, did you not?

A. Yes.

Q. And genetic sex, in your understanding, what is the meaning of genetic sex?

ATTORNEY BORELLI: Objection, form.

THE WITNESS: Well, in most patients, in most people, it is whether you received an X or a Y chromosome and all of your body parts include an XY containing or an XX containing cell. There are cases where you can have mosaicism or different parts of a human at different sex chromosomes where a part is XX, a part is XY, part is XO. And then there is also some mutations that can occur in lots of other locations that

BY ATTORNEY BROOKS:

Q. The relationship between chromosomal sex and gonads are not separate things that can vary in healthy individuals, are they?

ATTORNEY BORELLI: Objection to form.

THE WITNESS: Well, I have healthy individuals who have XY chromosomes and external genitalia that are completely female.

ATTORNEY BROOKS: Let me mark as Exhibit 5 the prior edition guidelines put out by the Endocrine Society in 2009, eight years earlier.

(Whereupon, Adkins Exhibit 5, 2009

Endocrine Society Guidelines, was marked for identification.)

BY ATTORNEY BROOKS:

Q. And the primary author is on --- the first author on the 2009 guidelines are the same individuals, Dr. Hembree and Cohen-Kettenis?

Correct?

A. Correct.

ATTORNEY BORELLI: Objection, form.

BY ATTORNEY BROOKS:

can determine whether or not a patient's, you know, likely to have the rest of their human development appear as what we would more typically see in a male human or a female human.

BY ATTORNEY BROOKS:

Q. Well, in every human individual who is healthy and free of disorder of sexual development, genetic sex and gonadal sex are --- directly correspond.

Correct?

ATTORNEY BORELLI: Objection, form.

THE WITNESS: Typically, yes.

BY ATTORNEY BROOKS:

Q. So in a healthy individual free of genetic defect every individual who is chromosomally XX is going to have female gonads and female genitalia.

Correct?

ATTORNEY BORELLI: Objection to form.

THE WITNESS: My only concern is I would not use defect as a language. There's --- you know, we see variation across humans and we --- you know, there are variations that are normal and variations that are typical versus rare. So I would not call it necessarily a defect, maybe a variation would be the word I would use.

Q. In fact, you, yourself, were familiar with and regularly consulted these guidelines.

Am I correct?

ATTORNEY BORELLI: Objection to form.

THE WITNESS: Prior to 2017?

BY ATTORNEY BROOKS:

Q. Correct.

A. I used these guidelines.

Q. And did you find them to be incomprehensible?

ATTORNEY BORELLI: Objection, form.

THE WITNESS: No.

BY ATTORNEY BROOKS:

Q. If you look with me on page marked 3134, which is the third page of the document, second column three quarters of the way down is the definition of --- under the heading of definitions is a definition of transsexual or transsexual people.

Do you see that?

A. I see it.

Q. It says there that a transsexual person refers to a biological male who identifies as or desires to be a female --- a member of the female gender or vice versa.

Do you see that?

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1 A. Yes.

2 **Q. And so in 2009 these prominent authors in the**
3 **field considered biological male to be a scientifically**
4 **useful and adequately clear term for them to use in**
5 **these guidelines issued by the Endocrine Society.**

6 **Correct?**

7 ATTORNEY BORELLI: Objection, form.

8 THE WITNESS: It's written that way in
9 this paper, yes.

10 BY ATTORNEY BROOKS:

11 **Q. And you in that time period 2009 to just 2017**
12 **used these guidelines and were able to understand them.**

13 **Correct?**

14 ATTORNEY BORELLI: Objection, form.

15 THE WITNESS: You know, I would have to
16 spend some time looking to see what else is in here. It
17 has been a long time since I've used these particular
18 and pulled out. And it is a single location. It can
19 sometimes be misleading if you're aware --- if you've
20 read many medical articles.

21 BY ATTORNEY BROOKS:

22 **Q. So you don't recall whether you found these**
23 **guidelines to be comprehensible and useful for your**
24 **purposes in the years between 2009 and 2017?**

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1 ATTORNEY BORELLI: Objection, form.

2 THE WITNESS: Generally they were useful.
3 BY ATTORNEY BROOKS:

4 **Q. If you look just a little lower is --- the next**
5 **definition is transition.**

6 **Do you see that?**

7 A. Yes.

8 **Q. And it refers to a period of time during which**
9 **transsexual persons change their physical, social and**
10 **legal characteristics to the gender opposite that of**
11 **their biological sex.**

12 **Do you see that?**

13 A. I do.

14 **Q. And again, these authors used the term**
15 **biological sex, did they not?**

16 A. They did.

17 **Q. And they indicated their understanding that**
18 **biological sex is binary in referring to opposite of a**
19 **biological sex.**

20 **Correct?**

21 ATTORNEY BORELLI: Objection, form.

22 THE WITNESS: In this older version they
23 do use more binary terms. As you know, language changes
24 over time. In the new guidelines they don't talk as

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1 much about binary.

2 BY ATTORNEY BROOKS:

3 **Q. Is it your belief that the underlying biology**
4 **has changed since 2009?**

5 ATTORNEY BORELLI: Objection, form.

6 THE WITNESS: Our understanding of a lot
7 of things in this area is growing rapidly. It's a rapid
8 area of research.

9 BY ATTORNEY BROOKS:

10 **Q. Let me ask you to turn in this document to page**
11 **3141.**

12 A. Same document, 3141?

13 **Q. Yes.**

14 A. Thank you.

15 **Q. And here we're in a discussion of the use of**
16 **GRNH analogs, which is to say puberty blockers.**

17 **Am I correct?**

18 A. Which section?

19 **Q. Well, the heading is 2.3, evidence, and it is**
20 **talking about in the second paragraph treatment with**
21 **GRNH analogs?**

22 ATTORNEY BORELLI: Counsel, can we give
23 the witness one moment to look at this?

24 ATTORNEY BROOKS: Of course.

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1 ATTORNEY BORELLI: Thank you.

2 THE WITNESS: Yes, that appears to be
3 what is discussed in this section.

4 BY ATTORNEY BROOKS:

5 **Q. Here the authors in the 2009 Endocrine Society**
6 **guidelines describe the effect of treatment with puberty**
7 **blockers.**

8 **Correct?**

9 ATTORNEY BORELLI: Objection, form.

10 THE WITNESS: Yes.

11 BY ATTORNEY BROOKS:

12 **Q. And they say among other things that, quote, in**
13 **girls breast development will become atrophic and menses**
14 **will stop. And they continue, quote, in boys**
15 **verilization will stop and testicular volume will**
16 **decrease.**

17 **Do you see those quotes?**

18 A. I do.

19 **Q. Again, in 2009, the Endocrine Society didn't**
20 **think there was ambiguity or imprecision as to what is a**
21 **girl and what is a boy for purposes of development in**
22 **puberty, did they?**

23 ATTORNEY BORELLI: Objection to form.

24 THE WITNESS: As I said, the language

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1 would be different and likely is different in
2 conversations around this because it is not as precise
3 as I would use or my colleagues would use.

4 BY ATTORNEY BROOKS:

5 **Q. In 2009 the Endocrine Society in publishing**
6 **these guidelines didn't think there was any ambiguity or**
7 **imprecision as to what is a girl and what is a boy for**
8 **purposes of the effect of puberty.**

9 **Correct?**

10 ATTORNEY BORELLI: Objection to form.

11 THE WITNESS: I would have to read the
12 article up to this point to see what their
13 clarifications are with regard to those phrases.
14 Oftentimes in the beginning of articles they will
15 clarify what they mean by a particular phrase, and
16 taking it out of context is a little bit difficult for
17 me to just say it is true right here on the spot.

18 ATTORNEY BORELLI: I would also just
19 object to the extent that we're asking about select
20 definitions without having given the witness an
21 opportunity to review the entire definition and section
22 of the document and asking her to draw conclusions about
23 the larger document.

24 ATTORNEY BROOKS: Counsel, I think that

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1 **prescribe cross sex hormones for a patient in patients**
2 **who are free of any disorder of sexual development you**
3 **don't have any trouble determining which patients need**
4 **testosterone as a cross sex hormone versus which**
5 **patients need estrogen as a cross sex hormone, do you?**

6 ATTORNEY BORELLI: Objection, form.

7 THE WITNESS: My mouth is getting dry. I
8 don't have any trouble with that.

9 BY ATTORNEY BROOKS:

10 **Q. And that's because absent rare and unusual**
11 **disorders of sexual development it's really easy for all**
12 **of us to tell girls from boys, isn't it?**

13 ATTORNEY BORELLI: Objection to form.

14 THE WITNESS: With regard to their sex
15 assignment at birth, yes.

16 BY ATTORNEY BROOKS:

17 **Q. Now, you've mentioned a couple times when I**
18 **asked you questions about the 2009 guidelines that**
19 **perhaps a language that's used has changed.**

20 **Am I right?**

21 A. Yes.

22 **Q. You are not contending that how human biology**
23 **works has changed?**

24 ATTORNEY BORELLI: Objection, form.

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1 you are supposed to under the Rules to confine your
2 objections to stating objection.

3 BY ATTORNEY BROOKS:

4 **Q. In your practice today with respect to**
5 **individuals who do not suffer from any disorder of**
6 **sexual development you don't have any trouble telling**
7 **girls from boys, do you?**

8 ATTORNEY BORELLI: Objection to form.

9 THE WITNESS: I do not have trouble
10 deciding who was assigned female at birth versus those
11 who were assigned male at birth.

12 BY ATTORNEY BROOKS:

13 **Q. We have already talked about how that assignment**
14 **is done based on observation of genitalia, which depend**
15 **on underlying genetic sex.**

16 **Right?**

17 ATTORNEY BORELLI: Objection, form.

18 THE WITNESS: So the typical manner of
19 assignment we have discussed. Sometimes those things
20 change over time with --- absent of course a difference
21 of sex development or intersex conditions. Typically
22 they would match.

23 BY ATTORNEY BROOKS:

24 **Q. And if you are, for instance, getting ready to**

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1 THE WITNESS: Our understanding of human
2 biology at this time is accelerating greatly, especially
3 in the area of genetics. We can now look at someone's
4 whole exome, whole chromosome, and it's --- I mean in
5 this timeframe there's an amazing amount of information
6 that's become more clear.

7 BY ATTORNEY BROOKS:

8 **Q. So is it your --- are you asserting that the**
9 **more recent Endocrine Society policy statement should be**
10 **accepted as a more precise Scientific statement?**

11 ATTORNEY BORELLI: Objection, form.

12 THE WITNESS: The goal is for that to be,
13 yes, when you are writing those. And it's also been
14 sometimes since this was published as well.

15 BY ATTORNEY BROOKS:

16 **Q. Since the 2017 guidelines?**

17 A. Correct.

18 **Q. But in general, is it your view the more recent**
19 **statements of the Endocrine Society that touch on issues**
20 **of the definition of gender and sex are --- we should**
21 **consider more accurate or reliable than earlier**
22 **statements?**

23 ATTORNEY BORELLI: Objection, form.

24 THE WITNESS: In the correct context,

yes. Sometimes when they're taken out of context and applied to not the exact same population, they may or may not be as precise.

BY ATTORNEY BROOKS:

Q. They may or may not be. That is you don't maintain that generally more recent statements of the Endocrine Society relating to definitions of gender and sex are more reliable than earlier statements?

ATTORNEY BORELLI: Objection to form.

THE WITNESS: Their goal and our goal as a community is to be as precise as possible. Sometimes that works and sometimes it doesn't.

ATTORNEY BROOKS: Let me mark as Exhibit --- what are we at, 6. Exhibit 6. What is tab 4 in the materials provided to the court reporter, an article Lapinski, et al., which Dr. Adkins is a coauthor from 2017. Pardon me, 2017.

(Whereupon, Adkins Exhibit 6, 2017 Lapinski Article, was marked for identification.)

BY ATTORNEY BROOKS:

Q. And this is your only or perhaps one of only two

Do you see that?

A. Yes.

Q. And the paragraph continues on to page 692 and the language I want to call your attention to is there, but of course feel free to look at the paragraph?

ATTORNEY BORELLI: Counsel, for clarity of the record, I'm showing that the heading is on page 689.

ATTORNEY BROOKS: Correct. That's where the paragraph begins and then there's a two-page table breaks up the paragraph and now we're on 692.

ATTORNEY BORELLI: Thank you.

THE WITNESS: Just that paragraph.

BY ATTORNEY BROOKS:

Q. Yes.

A. Okay.

Q. In 2017, writing a guide for clinicians as to what you considered to be best practices in transgender health you and your coauthors thought that it was clear and useful to refer to, quote, the opposite biological sex, closed quote, did you not?

ATTORNEY BORELLI: Objection, form.

THE WITNESS: The language would be reflective of the original publications.

peer reviewed articles on which you were an author that relate to transgender patients.

Correct?

ATTORNEY BORELLI: Objection, form.

THE WITNESS: I'm going to refer back to my ---.

BY ATTORNEY BROOKS:

Q. Please do, and that's Exhibit 2.

A. I apologize --- I'm sorry. I was thinking of the book chapter. Yes, I was thinking of the book chapter I've written there. So those are also peer reviewed. So if you just falling manuscript of joint articles, that's true, but I also have one book chapter published and one that is in process.

Q. Well, at any rate, this article was published in 2017, the same year as the more recent guidelines from the Endocrine Society.

Correct?

A. Correct.

Q. And in this article --- let me ask you to turn to page 692. And looking at a paragraph that actually runs over from 689 because of a long intervening table. Paragraph is headed understanding the meaning of transitioning for transgender patients.

BY ATTORNEY BROOKS:

Q. Dr. Adkins, what do you mean by that answer?

A. When you're putting something into a journal article and you're reporting that original article's information, it would be inappropriate to change the language. So the original report that states this particular information used those words.

Q. Well, you didn't put this in quotation marks in your article, did you?

ATTORNEY BORELLI: Objection, form.

THE WITNESS: We don't necessarily have to put them in quotation marks. In medically referred journals you can just put the reference.

BY ATTORNEY BROOKS:

Q. And in fact, there is no footnote to this, is there, there is no reference?

ATTORNEY BORELLI: Objection, form.

THE WITNESS: Not right at the end of that sentence.

BY ATTORNEY BROOKS:

Q. What that sentence says to get it into the record, I'm referring to sexual orientation, it says, quote, this fluctuation tends to occur more commonly with individuals who are attracted to the opposite

biological sex before transitioning, closed quotes.

Have I read that language correctly?

A. Correct.

Q. And publishing this guideline for clinicians in 2017, is it your testimony that even if you thought that language was inaccurate and confusing you would not have clarified it?

ATTORNEY BORELLI: Objection, form.

THE WITNESS: I can't change what the publication states. It would be inappropriate for me to make a statement that was different from what the publication states. And there are people that fall on the binary and people who fall in the middle, and that particular study investigated people who identified on each end of the binary spectrum of individuals identification of gender identity.

BY ATTORNEY BROOKS:

Q. So you believe as a scientist and an author that writing in 2017, even if you thought the term biological sex was misleading and inaccurate, you --- it was nevertheless appropriate for you to use that term in a best practices guide that you were writing for clinicians?

ATTORNEY BORELLI: Objection, form.

THE WITNESS: S I have seen that policy and also seen the policies that are presented by the NIH which uses sex assigned at birth as well as gender identity and in addition, as variables that should be included in their research.

BY ATTORNEY BROOKS:

Q. My question is precise. Are you familiar with the NIH policy that requires grant supported research in sales or clinical work to, quote, consider sex as a biological variable?

ATTORNEY BORELLI: Objection, form.

Counsel, if you are going to continue questioning her about the policy, we'd request a copy be placed in front of the witness.

ATTORNEY BROOKS: At the moment I'm just asking the witness if she's familiar with that policy.

ATTORNEY BORELLI: My objection stands.

THE WITNESS: I haven't read the entire policy. I have seen that within the documents that you have presented, so I can't accurately state if it is true.

BY ATTORNEY BROOKS:

Q. Have you, yourself, ever submitted any grant proposal that was subject to that NIH policy?

THE WITNESS: So if you would read the entirety of the article, I would hope that we would be clear and it would be understood in that isolated paragraph, again I, have to use what language was used in the original publication. Otherwise, I'm misrepresenting the original publication and I would not want to do that.

BY ATTORNEY BROOKS:

Q. Well, if you thought the original publication was in accurate and misleading you wouldn't want to cite and rely on it, would you?

ATTORNEY BORELLI: Objection, form.

THE WITNESS: As it's stated, it's not inaccurate. And if you infer things from a sentence it could be misleading. If you read it straight for what it says, it's accurate to what the report gave in the initial publication.

BY ATTORNEY BROOKS:

Q. Are you familiar, Dr. Adkins, with a NIH policy that requires research supported by NIH grants that involves animal or human clinical work to consider what NIH refers to as, quote, sex as a biological variable, closed quote?

ATTORNEY BORELLI: Objection, form.

ATTORNEY BORELLI: Objection, form.

THE WITNESS: I have submitted NIH grants.

BY ATTORNEY BROOKS:

Q. And in that connection did you take some steps to assure that your grant proposal would comply with that policy?

ATTORNEY BORELLI: Objection, form.

THE WITNESS: All of my grants applications had sex assigned at birth as a variable that we report.

BY ATTORNEY BROOKS:

Q. Let me show you another more recent Endocrine Society policy statement. This is tab eight. It will be Exhibit 7.

(Whereupon, Adkins Exhibit 7, 2021 Endocrine Society Scientific Statement, was marked for identification.)

THE WITNESS: Before we start this questioning is it possible for me to take a break?

ATTORNEY BROOKS: It certainly is. At any time that you want to, you just say so.

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1 VIDEOGRAPHER: Going off the record. The
2 current time reads 10:08 a.m.
3 OFF VIDEO

4 ---
5 (WHEREUPON, A PAUSE IN THE RECORD WAS HELD.)
6 ---

7 ON VIDEOTAPE

8 VIDEOGRAPHER: We're back on the record.
9 Current time reads 10:21 a.m. Eastern Standard Time.

10 ATTORNEY BROOKS: And this is Roger
11 Brooks resuming the questioning. I have put in front of
12 the witness what is marked Exhibit 7, which is a, quote,
13 scientific statement from the Endocrine Society that is
14 entitled Considering Sex as a Biological Variable in
15 Basic and Clinical Studies: An Endocrine Society
16 Scientific Statement, closed quote. Do you see that?

17 A. Pardon me. Yes.

18 Q. So this is --- document, this statement is from
19 2021, just last year. And four more years --- recent
20 four more years of science available as compared to the
21 2017 guidelines we looked at earlier.

22 Correct?

23 A. It is that --- yes, as far as the date goes, I
24 mean, one would think they would be up-to-date.

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1 yes, there are some folks there who do a nice job.

2 Q. And maybe four lines from the bottom of that
3 block I see a reference to the National Institute of
4 Mental Health.

5 Do you see that?

6 A. Yes.

7 Q. And that's a highly respected governmental
8 research laboratory.

9 Correct?

10 ATTORNEY BORELLI: Objection, form.

11 THE WITNESS: Yes.

12 BY ATTORNEY BROOKS:

13 Q. And let me ask you to turn here in this document
14 to the second page, which is page 220. And this is, in
15 fact, the beginning of the text after the abstract on
16 the previous page. And there it begins, quote, sex is
17 an important biological variable that must be considered
18 in the design and analysis of human and animal research.
19 The terms sex and gender should not be used
20 interchangeably. Sex is dichotomous with sex
21 determination in the fertilized zygotes stemming from
22 unequal expression of sex chromosomal genes, closed
23 quote.

24 Do you see that language?

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1 Q. And let me just ask, obviously the Endocrine
2 Society is a large organization, but do you know, either
3 personally or by reputation, any of the authors listed
4 on this document?

5 ATTORNEY BORELLI: Objection, form.

6 THE WITNESS: Excuse me. Walter Miller
7 by reputation.

8 BY ATTORNEY BROOKS:

9 Q. And Walter Miller is at the University of
10 California, San Francisco, according to the footnote
11 there?

12 A. Let's see. That's what it looks like.

13 Q. And just looking down, the University of
14 California, San Francisco, is a highly prestigious
15 research institution, is it not?

16 A. It has a good reputation.

17 Q. And farther down, halfway down the block of
18 institutions that these authors are associated with, I
19 see University of California, Los Angeles. Do you see
20 that?

21 A. Yes.

22 Q. And UCLA, to use its abbreviation, is also a
23 highly respected research university, is it not?

24 A. You know, there is some variability there. And

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1 A. I do.

2 Q. Do you understand the meaning of the word
3 dichotomous?

4 A. I do.

5 Q. What does it mean?

6 A. Two options.

7 Q. There are two options. And do you think you
8 understand the significance of the statement that,
9 quote, sex is an important biological variable?

10 ATTORNEY BORELLI: Objection, form.

11 THE WITNESS: I understand that it ---
12 yes.

13 BY ATTORNEY BROOKS:

14 Q. In fact, I believe you testified earlier that in
15 the human body every body part, every cell either has XX
16 chromosomes or XY chromosomes depending on the
17 chromosomal sex of the individual.

18 Is that right?

19 ATTORNEY BORELLI: Objection, form.

20 THE WITNESS: Some individuals have a
21 mixture.

22 BY ATTORNEY BROOKS:

23 Q. And those would be genetic abnormalities.
24 Am I correct?

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1 ATTORNEY BORELLI: Objection, form.

2 THE WITNESS: Again, I don't like the
3 word abnormalities. It is a variation in presentation
4 of a human.

5 BY ATTORNEY BROOKS:

6 **Q. You would agree, would you not, that any**
7 **deviation from having either XX or XY chromosomes is**
8 **widely considered to be an abnormality?**

9 ATTORNEY BORELLI: Objection, form.

10 THE WITNESS: Again, I don't prefer that
11 language.

12 BY ATTORNEY BROOKS:

13 **Q. Dr. Adkins, I didn't ask you what you prefer. I**
14 **understand your preference. My question is you would**
15 **agree, would you not, within the scientific community it**
16 **is widely held view that any chromosomal arrangement**
17 **other than having XX or XY is abnormal?**

18 ATTORNEY BORELLI: Objection, form.

19 THE WITNESS: Not in my experience in my
20 group of people that I practice with, they would not
21 describe it that way.

22 BY ATTORNEY BROOKS:

23 **Q. Would you agree that sex is determined to use**
24 **the language that I have directed you to, quote, in the**

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1 determined in fertilized zygote. That doesn't
2 necessarily equal sex that's assigned at birth.

3 BY ATTORNEY BROOKS:

4 **Q. Absent any disorder of sexual development, the**
5 **determination the zygote that you just described will,**
6 **in fact, dictate 100 percent reliability the sex**
7 **observed at birth.**

8 **Correct?**

9 ATTORNEY BORELLI: Objection, form.

10 THE WITNESS: Well, I can't --- you know,
11 in medicine we don't say anything is 100 percent. If
12 you use the absent any --- any difference of sex
13 development even an unknown one that we might not know
14 about, that --- that is what we know to be true.

15 BY ATTORNEY BROOKS:

16 **Q. You mentioned earlier that dichotomous means**
17 **there are two alternatives and only two alternatives.**

18 **Right?**

19 ATTORNEY BORELLI: Objection, form.

20 BY ATTORNEY BROOKS:

21 **Q. That's just what the word means?**

22 ATTORNEY BORELLI: Same objection.

23 THE WITNESS: That's what the word means.

24 BY ATTORNEY BROOKS:

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1 **fertilized zygote, closed quote?**

2 A. I'm sorry. Can you re-read the question or
3 repeat the question?

4 **Q. Yes. I'm referring to the language that**
5 **references sex determination in the fertilized zygote.**
6 **And my question is do you agree that the sex of an**
7 **individual is determined, quote, in the fertilized**
8 **zygote, closed quote?**

9 ATTORNEY BORELLI: Objection, form.

10 THE WITNESS: Again, they're not being
11 very specific in that particular sentence about what
12 they mean by sex.

13 BY ATTORNEY BROOKS:

14 **Q. You're not able to say whether this opening**
15 **language in this 2021 statement from the Endocrine**
16 **Society is in your view accurate or in accurate?**

17 ATTORNEY BORELLI: Objection to form.

18 THE WITNESS: Taking one statement, I
19 can't. This is a very long document.

20 BY ATTORNEY BROOKS:

21 **Q. I'm asking you now, do you agree or disagree the**
22 **sex is determined in the fertilized zygote?**

23 ATTORNEY BORELLI: Objection, form.

24 THE WITNESS: XX and XY components are

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1 **Q. And in this important statement from the**
2 **Endocrine Society published just last year drafted by a**
3 **whole committee of prominent endocrinologists they say**
4 **that sex is an important biological variable, closed**
5 **quote. Do you disagree with this statement from the**
6 **Endocrine Society?**

7 ATTORNEY BORELLI: Objection, form.

8 THE WITNESS: In reading that particular
9 statement I would agree if they had used the word sex
10 assigned at birth or something more precise in that
11 sentence.

12 BY ATTORNEY BROOKS:

13 **Q. Well, what they said precisely is sex is a**
14 **biological variable. Do you see that language?**

15 A. Yeah.

16 **Q. Do you agree with that?**

17 ATTORNEY BORELLI: Objection, form.

18 THE WITNESS: So in the context of
19 medicine, when we're talking about sex and we're talking
20 about --- that's very imprecise. I really think that it
21 is --- I would --- it's hard for me to use that word
22 because it is imprecise, as I have mentioned before.

23 BY ATTORNEY BROOKS:

24 **Q. So you think this statement from last year from**

1 the Endocrine Society in its opening language is so
2 imprecise that you can't tell me whether you think it is
3 accurate or not?

4 ATTORNEY BORELLI: Objection, form.

5 THE WITNESS: I would have to read the
6 entirety of the report and take it within context as I
7 would with any other language used.

8 BY ATTORNEY BROOKS:

9 **Q. Sitting here right now, you're unable to answer**
10 **my question as to whether you think it is an accurate**
11 **statement that sex is a biological concept?**

12 ATTORNEY BORELLI: Objection, form.

13 THE WITNESS: Sex is a biological
14 concept, yes.

15 BY ATTORNEY BROOKS:

16 **Q. And let me take you, in fact, to page 221 of**
17 **this document, first column. And there you will see a**
18 **heading that begins biological sex, the definition of**
19 **male and female.**

20 **Do you see that?**

21 A. Yes.

22 **Q. And it begins sex is a biological concept. And**
23 **you just said that you think that's a scientifically**
24 **true statement.**

1 **Q. In the first paragraph under the heading**
2 **biological sex, directing your attention to the**
3 **statement did you discuss the statement sex is a**
4 **biological concept. Do you see that language?**

5 A. I do.

6 **Q. And you believe that to be a scientifically**
7 **accurate statement?**

8 ATTORNEY BORELLI: Objection to form.

9 THE WITNESS: Yes.

10 BY ATTORNEY BROOKS:

11 **Q. And in the next sentence this Endocrine Society**
12 **statement tells us that, quote, all mammals have two**
13 **distinct sexes, closed quote. Do you believe that is**
14 **true or scientifically inaccurate?**

15 ATTORNEY BORELLI: Objection, form.

16 THE WITNESS: Excuse me. I'm sorry. I'm
17 trying to find that language.

18 BY ATTORNEY BROOKS:

19 **Q. Third line of that paragraph, all mammals have**
20 **two distinct sexes. My question is do you believe that**
21 **is inaccurate or accurate scientific ---?**

22 ATTORNEY BORELLI: Objection, form.

23 THE WITNESS: I still think it is
24 imprecise.

1 **Right?**

2 ATTORNEY BORELLI: Objection, form.
3 Could --- could she have an opportunity to read this
4 section before we continue questioning?

5 ATTORNEY BROOKS: Yes. But I'll ask you
6 not to coach the witness. I have not denied any
7 requests, but the witness should make them, not counsel.

8 ATTORNEY BORELLI: The objection stands.
9 It is appropriate to ask that a witness be able to read
10 a section of a document before being asked to opine
11 about the larger meaning of the document.

12 ATTORNEY BROOKS: I believe the witness
13 threw some more language in this paragraph so that's a
14 good idea.

15 BY ATTORNEY BROOKS:

16 **Q. If you will tell us when you have read that**
17 **paragraph.**

18 A. Yes. Sorry.

19 **Q. You have?**

20 A. No, I will tell you.

21 ATTORNEY TYRON: Jake, could you scroll
22 down a bit, please?

23 THE WITNESS: Okay.

24 BY ATTORNEY BROOKS:

1 BY ATTORNEY BROOKS:

2 **Q. Have you finished your answer?**

3 A. Yes. Sorry. My allergies are making me ---.

4 **Q. Any time you need a drink.**

5 A. Yeah. Sorry about that.

6 **Q. Few lines down it says, quote, the classical**
7 **biological definition of the two sexes is that females**
8 **have ovaries and make larger female gametes, eggs,**
9 **whereas the males have testes and male smaller gametes,**
10 **sperm. Do you see that language?**

11 A. I do.

12 **Q. Do you agree that is a fair statement of the**
13 **classical biological definition of the two sexes?**

14 ATTORNEY BORELLI: Objection, form.

15 THE WITNESS: When you use the word
16 classical it describes what you would see typically, so
17 I agree with that statement. It allows for there to be
18 some variations that may not be classical.

19 BY ATTORNEY BROOKS:

20 **Q. And it is accepted as a classical definition**
21 **because it is accurate in the overwhelming percentage of**
22 **cases.**

23 **Is that true?**

24 ATTORNEY BORELLI: Objection, form.

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1 THE WITNESS: So you know, as I mentioned
2 before in my papers that I submitted, it --- you know,
3 the percentage of people with differences of sex
4 development is low and those would be the individuals
5 that would not follow typically within this.

6 BY ATTORNEY BROOKS:

7 **Q. And those individuals are the overwhelming**
8 **majority.**

9 **Correct?**

10 ATTORNEY BORELLI: Objection, form.

11 THE WITNESS: They are the majority.

12 BY ATTORNEY BROOKS:

13 **Q. Well more than 99 percent.**

14 **Correct?**

15 ATTORNEY BORELLI: Objection, form.

16 THE WITNESS: I would have to do the math
17 but that sounds accurate.

18 BY ATTORNEY BROOKS:

19 **Q. Let me ask you to turn to page 228. In the**
20 **second column, the final paragraph begins on that page,**
21 **it reads, quote, sex is an essential part of vertebrate**
22 **biology, but gender is a human phenomenon, semicolon.**
23 **Sex often influences gender, but gender cannot influence**
24 **sex. Do you see that language.**

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1 A. What is the first word in the sentence again so
2 I can find it?

3 **Q. It's on the second column, the final paragraph.**

4 A. Okay.

5 **Q. I'm really just calling your attention to the**
6 **first sentence.**

7 A. Yep, read it.

8 **Q. Is there anything in that sentence that you**
9 **believe to be inaccurate scientifically?**

10 ATTORNEY BORELLI: Objection, form.

11 THE WITNESS: Again, I think they're
12 imprecise as primates have gender roles and gendered
13 activity, so it's not exactly precise.

14 BY ATTORNEY BROOKS:

15 **Q. Anything else about that statement that you want**
16 **to say is less than scientifically accurate?**

17 ATTORNEY BORELLI: Objection, form.

18 THE WITNESS: You know, again they use
19 the word sex without being very specific as to sex
20 assigned at birth. That's my only other caveat.

21 BY ATTORNEY BROOKS:

22 **Q. If we read that to refer to what the Endocrine**
23 **Society determined used in the 2017 Endocrine Society**
24 **statement that we looked at, that is, quote,**

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1 **genetic/gonadal sex, then do you you consider this**
2 **statement to be accurate?**

3 ATTORNEY BORELLI: Objection, form.

4 THE WITNESS: That's not what it says, so
5 I'll ask you to repeat the question for me.

6 BY ATTORNEY BROOKS:

7 **Q. If we assume hypothetically --- I will ask you**
8 **to assume that sex as used in this Endocrine Society**
9 **2021 document, has the meaning that you, in fact,**
10 **explained from the term used in the 2017 Endocrine**
11 **Society document that is, quote, genetic/gonadal sex,**
12 **closed quote, then you believe this to be --- the**
13 **language that I have read to you from the 2021 document**
14 **to be accurate?**

15 ATTORNEY BORELLI: Objection, form.

16 THE WITNESS: So I believe when I
17 answered that question --- I believe when I answered
18 that question sex, gonadal, you know, those are two
19 parts of it. They have not included the full range of
20 hormonal or external genitalia to be specific. In my
21 line of work I would need all of that information to
22 really pin down things.

23 BY ATTORNEY BROOKS:

24 **Q. So your testimony now is that the term**

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1 **genetic/gonadal '17 guidelines is too imprecise for you**
2 **really to understand?**

3 ATTORNEY BORELLI: Objection, form.

4 THE WITNESS: I think you asked that
5 question before.

6 BY ATTORNEY BROOKS:

7 **Q. And I thought you had said you did understand.**
8 **You seem to be changing your testimony.**

9 ATTORNEY BORELLI: Objection.

10 THE WITNESS: You can read it back to me
11 if you --- I think that there's multiple things that are
12 left out of that particular phrase to describe, you
13 know, individuals. I can't say something that is, you
14 know, in my experience and in the literature and in
15 patients with intersex conditions that are --- that
16 could be different from that. There --- yeah.

17 BY ATTORNEY BROOKS:

18 **Q. If we for a moment focus on individuals who do**
19 **not suffer from any disorder of sexual development, then**
20 **do you believe the following quote from Endocrine**
21 **Society 2021 document is true, and that is, quote, sex**
22 **is an essential part of vertebrate biology, but gender**
23 **is a human phenomenon, semicolon, sex often influences**
24 **gender, comma, but gender cannot influence sex, closed**

1 quote?

2 ATTORNEY BORELLI: Objection, form.

3 THE WITNESS: Trying to think, make sure

4 --- I can't think of an instance right now that makes me
5 disagree with that statement.

6 BY ATTORNEY BROOKS:

7 **Q. Let me take you to the first column on page 228**
8 **and there's a heading there that says considering sex**
9 **and/or gender as variables in health and disease.**

10 **Do you see that?**

11 A. No. What page are you on?

12 **Q. 228 ---**

13 A. Yes.

14 **Q. --- first column, the heading towards the bottom**
15 **of the page.**

16 A. Okay.

17 **Q. And here they're specifically mentioning sex on**
18 **one hand and gender on the other. Do you see that?**
19 **This paragraph begins, quote, women and men differ in**
20 **many physiological and psychological variables.**

21 **Do you see that?**

22 A. Yes.

23 **Q. Do you believe that to be a scientifically**
24 **accurate statement?**

1 ATTORNEY BORELLI: Objection, form.

2 THE WITNESS: I think if I were to add
3 typical, it's saying there is variability.

4 BY ATTORNEY BROOKS:

5 **Q. Well, it is saying specifically that women and**
6 **men differ from each other in physiological and**
7 **psychological ways.**

8 **Correct?**

9 ATTORNEY BORELLI: Objection, form.

10 THE WITNESS: That's what it says.

11 BY ATTORNEY BROOKS:

12 **Q. And do you believe that to be a scientifically**
13 **true statement?**

14 ATTORNEY BORELLI: Objection, form.

15 THE WITNESS: Again, you know, you have
16 to interpret these in their context of what they are
17 saying. Statements.

18 BY ATTORNEY BROOKS:

19 **Q. Do you believe it to be true or false that women**
20 **and men differ in many physiological and psychological**
21 **variables?**

22 ATTORNEY BORELLI: Objection, form.

23 THE WITNESS: All people are different.

24 BY ATTORNEY BROOKS:

1 **Q. Dr. Adkins, do you believe it to be true or**
2 **false that women and men as women and men differ from**
3 **each other in many physiological and psychological**
4 **variables?**

5 ATTORNEY BORELLI: Objection to the form.

6 THE WITNESS: So women and men are a
7 gender assignment, not the biological sex which you
8 mentioned before. And gender is not necessarily a way
9 that I would necessarily think is a scientifically
10 precise way to place that if you're talking about this
11 particular statement.

12 BY ATTORNEY BROOKS:

13 **Q. Is it your belief that the Endocrine Society in**
14 **this document in the terms women and men is referring to**
15 **gender identity other than biological --- what does the**
16 **word physiological mean to you as a doctor?**

17 A. The method of function and interaction of all
18 the parts of the body.

19 **Q. It refers to biology, not to the statement of**
20 **mind or identity.**

21 **Correct?**

22 ATTORNEY BORELLI: Objection to form.

23 THE WITNESS: I would just agree with
24 that statement.

1 BY ATTORNEY BROOKS:

2 **Q. Let me ask you to turn to page 229.**

3 **Q. The first full paragraph begins, quote, despite**
4 **the fact that biological sex is such a fundamental**
5 **source of interest specific variation in anatomy and**
6 **physiology, much basic and clinical science has tended o**
7 **focus studies on one sex, typically male, closed quote.**

8 **Do you see that language?**

9 A. I do.

10 **Q. And do you understand what is meant by**
11 **intraspecific variation? Let me offer a suggestion. Do**
12 **you understand it to refer to variations within the**
13 **human species?**

14 ATTORNEY BORELLI: Objection to form.

15 THE WITNESS: I think you know again in
16 context I would need to intraspecific --- intraspecific
17 could be between me and you. Isolated in this one
18 sentence, I would need to take a moment to see if it
19 better explains it if I were to read further.

20 BY ATTORNEY BROOKS:

21 **Q. Do you disagree or agree that biological sex is**
22 **a fundamental source of variation in anatomy and**
23 **physiology within the human species?**

24 ATTORNEY BORELLI: Objection, form.

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1 THE WITNESS: I'm sorry. I got
2 sidetracked in my brain. Could you please read the
3 question?

4 BY ATTORNEY BROOKS:

5 **Q. Yes, I can. Do you agree or disagree that**
6 **biological sex is the fundamental source of variation in**
7 **anatomy and physiology within the human cease species?**

8 ATTORNEY BORELLI: Objection, form.

9 THE WITNESS: There is lots of other
10 parts of physiology that are completely unrelated to
11 your reproductive system that is more fundamental.

12 BY ATTORNEY BROOKS:

13 **Q. Dr. Adkins, do you agree or disagree that**
14 **biological sex is a fundamental source of variation in**
15 **anatomy and physiology with human species?**

16 ATTORNEY BORELLI: Objection, form.

17 THE WITNESS: It is one of the variables
18 within variations.

19 ATTORNEY BROOKS: Let me mark as Exhibit
20 8 an infographic, if I can use that term. Exhibit 8?

21 VIDEOGRAPHER: Excuse me, Counsel. You
22 cut out right after Exhibit 8. I didn't hear which
23 document that was.

24 ATTORNEY BROOKS: It is tab 9 and it is a

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1 A. Okay.

2 **Q. In the box at the top it says, and I quote, sex**
3 **is a biological classification included in our DNA.**
4 **Males have XY chromosomes and females have XX**
5 **chromosomes. Sex makes us male or female. Do you see**
6 **that language?**

7 A. I do.

8 **Q. And it continues, every cell in your body has a**
9 **sex making up tissues and organs like your skin, brain,**
10 **heart and stomach. Each cell is either male or female**
11 **depending on whether you are a man or a woman, closed**
12 **quote.**

13 **Do you see that?**

14 A. I do.

15 **Q. And then it continues under that with a**
16 **definition of gender. So my question is --- begins**
17 **here, the opening statement in this NIH publication says**
18 **that sex is a biological classification. Do you agree**
19 **or disagree with that?**

20 ATTORNEY BORELLI: Objection, form.

21 THE WITNESS: You know, there is a whole
22 literature on --- on this --- the differences in --- in
23 sex. I --- so biological as opposed to another type of
24 classification, I agree with that statement.

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1 one page infographic, if I may, put out by the National
2 Institute of Health titled How Sex and Gender Influence
3 Sex and Disease.

4 ---

5 (Whereupon, Adkins Exhibit 8, NIH
6 Sex/Gender Infographic, was marked for
7 identification.)

8 ---

9 BY ATTORNEY BROOKS:

10 **Q. And first let me ask, Dr. Adkins, are you**
11 **familiar with the National Institute of Health as an**
12 **organizations?**

13 A. Yes.

14 **Q. That is a government research institute?**

15 A. Yes.

16 **Q. And major grant --- major source of grants,**
17 **grant making in the health sciences?**

18 A. Yes.

19 **Q. And are you --- were you aware that it has**
20 **within it an Office of Research on Women's Health?**

21 A. No.

22 **Q. Do you see that this is published by the**
23 **National Institute of Health, Office of Research on**
24 **Women's Health?**

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1 BY ATTORNEY BROOKS:

2 **Q. It says a little further along that, quote,**
3 **every cell in your body has a sex, closed quote. Do you**
4 **agree or disagree with that?**

5 ATTORNEY BORELLI: Objection to the form.

6 THE WITNESS: I agree. And each cell can
7 be different.

8 BY ATTORNEY BROOKS:

9 **Q. Are you saying that within an individual --- a**
10 **specific individual each cell can have a different sex?**

11 A. Yes.

12 **Q. This NIH publication tells us that, quote, each**
13 **cell is either male or female, closed quote. And I take**
14 **it you simply believe the NIH is wrong about that?**

15 ATTORNEY BORELLI: Objection, form.

16 THE WITNESS: I think that the nuances
17 are something that you can't publish in a one-page
18 documentation when they're not talking about an entire
19 population.

20 BY ATTORNEY BROOKS:

21 **Q. Under this initial box is a heading that says**
22 **examples of sex and gender influences. Do you see that?**

23 A. I do.

24 **Q. And it has various categories of things that may**

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1 be influenced on one end by sex, which is defined in
2 this document as a biological classification, and
3 gender. Do you see that structure of this document?

4 ATTORNEY BORELLI: Objection, form.

5 THE WITNESS: Yeah.

6 BY ATTORNEY BROOKS:

7 Q. And it says if we go down to cardiovascular risk
8 one of the differences that is identified as based on
9 sex is that, quote, blood vessels in a woman's heart are
10 smaller in diameter and much more intricately branched
11 than those of a man, closed quote. Do you see that?

12 A. Under cardiovascular risk, yeah. Okay.

13 Q. And the NIH gives this as an example of a
14 physical measurable biological difference that depends
15 on biological sex.

16 Correct?

17 ATTORNEY BORELLI: Objection, form.

18 THE WITNESS: Well, actually the words
19 they're using are gender --- gender words, not the words
20 we would use for sex, you know, female or male or a
21 variation in between. So I would --- if I were editing
22 this document, I probably wouldn't have used the word
23 woman.

24 BY ATTORNEY BROOKS:

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1 Q. And if we use the term --- substitute the term
2 females for women and girls and say females are more
3 likely to injure their knees when playing sports, do you
4 believe that to be a scientifically accurate statement?

5 ATTORNEY BORELLI: Objection to form.

6 THE WITNESS: You have to leave some
7 room. Again, in medicine we're not like 100 percent.
8 But I agree that portions of females that are typical in
9 research have been reported to have more frequent knee
10 injuries.

11 BY ATTORNEY BROOKS:

12 Q. Okay.

13 Let me ask you to find your report, Exhibit 1,
14 and let's turn to paragraph 15. And there you wrote,
15 quote, a person's gender identity refers to a person's
16 inner sense of belonging to a particular gender such as
17 male or female. And you continue every one has a gender
18 identity, closed quote. Do you see that language?

19 A. I do.

20 Q. Let me direct your attention to the Endocrine
21 Society guidelines from 2007, which is Exhibit 4. And
22 we're going to come back --- if you can make a stack of
23 most of these, but the 2017 guidelines we will come back
24 to with some frequency. But we're ---

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1 Q. You would have said a female?

2 A. Typical female.

3 Q. Because what --- how the blood vessels in your
4 heart are structured depend on your sex, not on your
5 gender identity. Am I correct?

6 ATTORNEY BORELLI: Objection, form.

7 THE WITNESS: There is many variables
8 that can affect these things and what --- that is one of
9 them.

10 BY ATTORNEY BROOKS:

11 Q. To your knowledge, gender identity is not a
12 variable that affects how the blood vessels in one's
13 heart are structured, does it?

14 ATTORNEY BORELLI: Objection, form.

15 THE WITNESS: Not that I'm aware of.

16 BY ATTORNEY BROOKS:

17 Q. Under the last item here is knee arthritis. Do
18 you see that heading?

19 A. Yes.

20 Q. I'm sure we'll have the same terminology
21 discussion, but the language there says, quote, women
22 and girls are more likely to injure their knees when
23 playing sports, closed quote. Do you see that language?

24 A. I do.

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1 A. Keeping it on top?

2 Q. --- keeping it on top.

3 A. Okay.

4 Q. And there I want to call your attention to page
5 3873.

6 A. 3873.

7 Q. Right. And in the second column there's a
8 section headed introduction. And it begins with a
9 historical review of the concept of gender. And I'm
10 going to ask you a question beginning with the language
11 that is two inches from the bottom, two and a half
12 inches from the bottom that begins these early
13 researchers. So if you want to kind of glide through
14 what comes before that, let me know and I'll begin my
15 questioning.

16 A. Yes, I'll look over it. Thank you.

17 I have read that section.

18 Q. I want to call your attention to a sentence
19 which my understanding is contrasting against or the
20 history that begins, quote, some experience themselves
21 as having both a male and female gender identity whereas
22 others completely renounce any gender classification,
23 closed quote. Do you see that language?

24 A. I do.

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Q. And in your expert opinion, is that an accurate statement?

ATTORNEY BORELLI: Objection, form.

THE WITNESS: In my clinical experience I have met individuals who are --- identify as agender which would in my mind be similar to this definition, but I typically ask the patient what their gender means to them.

BY ATTORNEY BROOKS:

Q. Well, do you have any opinion as to whether some individuals experience both a male and female gender identity?

ATTORNEY BORELLI: Objection, form.

THE WITNESS: I have patients that do that, yes.

BY ATTORNEY BROOKS:

Q. And I think you said that --- I don't want to puts words in your mouth. Do you have an opinion whether some individuals report not having any gender, not fitting any gender classification?

ATTORNEY BORELLI: Objection, form.

THE WITNESS: I do have patients that match that description.

BY ATTORNEY BROOKS:

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ATTORNEY BROOKS: Let me mark as Exhibit 9 what is tab 10, and that is a one-page statement from a World Health Organization's website titled Gender and Health.

(Whereupon, Adkins Exhibit 9, World Health Organization Webpage, was marked for identification.)

THE WITNESS: Thank you.

BY ATTORNEY BROOKS:

Q. Are you familiar with the World Health Organization as an organization?

A. I am.

Q. And do you consider the World Health Organization to be generally a respected source of information on medical and health topics?

ATTORNEY BORELLI: Objection to form.

THE WITNESS: My general experience so far to date is they're reliable.

BY ATTORNEY BROOKS:

Q. Well, I will represent to you that this document came off of a World Health Organization website and the web address is at the bottom of the page. I see on the

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Q. And this goes on the next sentence to say, quote, there are also reports of individuals experiencing a continuous and rapid involuntary alternation between a male and female identity, closed quote.

Do you see that?

A. I do.

Q. And do you believe that to be an accurate statement?

ATTORNEY BORELLI: Objection, form.

THE WITNESS: I have not had that clinical experience. I would have to rely on the, you know, medical report with that in particular, and I would probably look at the evidence that was available ---

BY ATTORNEY BROOKS:

Q. Well ---

A. --- prior to making a decision.

Q. --- do you as a practitioner consider it reasonable to rely on that assertion in this 2017 Endocrine Society statement guideline?

ATTORNEY BORELLI: Objection, form.

THE WITNESS: I would rely on it to be something I should at least consider.

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copy in front of you --- I'll stand by my representation of why mine has it ---.

A. Okay.

Q. This document titled Gender and Health begins gender refers to the characteristics of women, men, girls and boys that are socially constructed, closed quote. Do you see that?

A. I do.

Q. And is that a definition of gender per se that's consistent with how you are used to seeing the term used?

ATTORNEY BORELLI: Objection, form.

THE WITNESS: So you know, social constructs change regularly, so I would say that, you know, that wouldn't be completely inclusive of current socially constructed genders, in my experience.

BY ATTORNEY BROOKS:

Q. Well, let me direct --- why don't you read that whole first paragraph, which is just three sentences, because I think the World Health Organization raises exactly that point. So I'll ask you to read that?

A. Sure. Sure.

(WHEREUPON, WITNESS REVIEWS DOCUMENT.)

1 ---

2 THE WITNESS: Okay.

3 BY ATTORNEY BROOKS:

4 **Q. So extending into that paragraph, that**
 5 **three-sentence paragraph, just that explanation of the**
 6 **concept of gender fit with how you are used to seeing**
 7 **the term used in your professional experience?**

8 ATTORNEY BORELLI: Objection, form.

9 THE WITNESS: So in reading that, my
 10 understanding of what they are using those specific
 11 words, men, women, girls and boys are examples. They
 12 don't comment on other societies. Just so --- in that
 13 assessment, yes.

14 BY ATTORNEY BROOKS:

15 **Q. All right.**

16 **If we skip down to the third paragraph it**
 17 **begins gender interacts with but is different from sex,**
 18 **which refers to the different biological and**
 19 **psychological characteristics of females, males and**
 20 **intersex persons, such as chromosomes, hormones and**
 21 **reproductive organs, closed quote. Do you see that**
 22 **language?**

23 A. I would like to read it, too, though, if you
 24 don't mind.

1 **Q. Sure.**

2 A. Yeah. Okay. I have read it.

3 **Q. So first, backing up to the statement, opening**
 4 **paragraph, that gender is socially constructed, do you**
 5 **believe that to be an accurate statement?**

6 ATTORNEY BORELLI: Objection, form.

7 THE WITNESS: Gender is a social
 8 construct, yes.

9 BY ATTORNEY BROOKS:

10 **Q. And then in the third paragraph it states that**
 11 **gender identity refers to a person's deeply felt**
 12 **internal and individual experience of gender. Do you**
 13 **see that?**

14 A. I do.

15 **Q. So gender identity refers to an individual's**
 16 **experience in relation to gender, which is a social**
 17 **construct.**

18 **Right?**

19 ATTORNEY BORELLI: Objection, form.

20 THE WITNESS: I see it, and I would ask
 21 you to read the question one more time. I just want to
 22 make sure I'm answering you accurately.

23 BY ATTORNEY BROOKS:

24 **Q. As I think I see in this document really the**

1 **question is as you understand it ---.**

2 A. I think that you have to also include ---.

3 COURT REPORTER: Excuse me. I need to
 4 interrupt. Excuse me. I'm sorry to interrupt, but
 5 Counsel, your full question didn't come through on this
 6 end.

7 ATTORNEY BROOKS: I'll re-ask it. Pardon
 8 me.

9 ATTORNEY BORELLI: Actually, why don't we
 10 just address one housekeeping matter. Would you be able
 11 to identify for the record the URL that appears on your
 12 copy and whether there is a date of the document or date
 13 of access just so we have it on the record?

14 ATTORNEY BROOKS: There is no date of
 15 access. That access is within the last two months. The
 16 address is
 17 www.who.int/health-topics/gender#tabequalstab, underline
 18 one.

19 ATTORNEY BORELLI: Thank you.

20 ATTORNEY BROOKS: I'm glad it wasn't one
 21 of these four line ones.

22 BY ATTORNEY BROOKS:

23 **Q. And I will re-ask my question.**

24 A. Okay.

1 **Q. The question is, Dr. Adkins, is it consistent**
 2 **with your understanding that gender identity refers to a**
 3 **person's individual experience of gender, which is in**
 4 **turn a social construct?**

5 ATTORNEY BORELLI: Objection, form.

6 THE WITNESS: That doesn't sound to me to
 7 be a full explanation. Just doesn't sound accurate to
 8 me. I'm having a hard time.

9 BY ATTORNEY BROOKS:

10 **Q. Then let me not take more time on that.**

11 A. Okay.

12 **Q. You would agree that gender is a social**
 13 **construct that can change over time.**

14 **Am I right?**

15 ATTORNEY BORELLI: Objection, form.

16 THE WITNESS: Gender --- so it's a social
 17 construct, it's true. Gender is, you know, how you ---
 18 I mean, it's complicated. It involves more things than
 19 --- and so, you know, if you're talking about gender
 20 expression, that's different. Someone's gender as they
 21 understand it for their gender identity is different. I
 22 mean, I have patients who are assigned a particular sex
 23 and the family and the physicians assign a gender that
 24 is more typically correlated with that sex. And then

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1 over time those individuals sometimes don't identify
2 with that gender, and they may change their gender
3 marker, for example, because their identity really just
4 doesn't match what we assigned them at birth. I'm not
5 sure how to give a clearer answer. I'm trying.

6 BY ATTORNEY BROOKS:

7 **Q. Well, so if an individual comes into your office**
8 **and asserts a gender identity of, let's say, man or**
9 **both, either one of those, how can a clinician verify**
10 **whether that individual is accurately understanding his**
11 **own or their own subjective feelings?**

12 ATTORNEY BORELLI: Objection, form.

13 THE WITNESS: And you know, a gender
14 again is something that's assigned at birth and it is
15 what you work with in your life, and so you know, I
16 would ask them and they could tell me how they were
17 proceeding in life with regard to their gender
18 behaviors. That would be how I would probably assess
19 their gender.

20 BY ATTORNEY BROOKS:

21 **Q. How do you ascertain whether that individual who**
22 **claims identity of man or both is telling you, the**
23 **clinician, the truth?**

24 ATTORNEY BORELLI: Objection, form.

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1 THE WITNESS: So in general, you know,
2 in pediatrics we have a parental report, and it depends
3 on the clinical situation. We may or may not have
4 another health provider's report or a mental health
5 provider's report. If we have questions, we start to
6 dig deeper and look at other areas.

7 BY ATTORNEY BROOKS:

8 **Q. Let me call your attention to paragraph 19 in**
9 **your expert report, Exhibit 1. And there you refer to**
10 **DSM-V definition of gender dysphoria.**

11 **Do you see that?**

12 A. What paragraph?

13 **Q. Paragraph 19?**

14 A. Yeah.

15 **Q. And you mention that among other things the**
16 **diagnostic criteria under DSM-V for gender dysphoria**
17 **includes, quote, clinically significant distress. Do**
18 **you see that?**

19 A. I do.

20 **Q. And in fact, it includes clinically significant**
21 **distress that, quote, impairs important areas of**
22 **functioning, closed quote.**

23 **Am I correct? Do you recall that in DSM-V?**

24 ATTORNEY BORELLI: Objection. Objection

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1 to form.

2 THE WITNESS: That is how I recall that.

3 BY ATTORNEY BROOKS:

4 **Q. Paragraph right?**

5 A. Yeah. I want to reserve the right to look at it
6 to be certain. That sounds correct to me at this
7 moment.

8 **Q. And what does clinically significant distress**
9 **that impairs important areas of functioning look like in**
10 **a child?**

11 ATTORNEY BORELLI: Objection, form.

12 THE WITNESS: Yeah. So you know, it
13 depends on what they are coming in with. I mean, for
14 some of my patients, you know, who are, you know,
15 hyperthyroid, for example, their brain's run really
16 fast, they can't focus during school, and that would be
17 impairment in their ability to do their main job, which
18 is to be in school and learn. So that's one area where
19 you can have some impairment in their --- it varies from
20 patient to patient and in each thing we're talking
21 about.

22 BY ATTORNEY BROOKS:

23 **Q. The example you just gave was impairment**
24 **resulting from a hyperthyroid condition.**

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1 **Am I correct?**

2 A. Correct.

3 **Q. What I asked was impairment due to ---**
4 **attributable to what gender dysphoria looks like in a**
5 **child.**

6 A. Oh.

7 ATTORNEY BORELLI: I don't want to
8 interrupt. I think there may have been a misreading of
9 the language in the paragraph, and I just want to make
10 sure the record is correct that the final sentence of
11 that paragraph says in order to be diagnosed with gender
12 dysphoria, incongruence must persist for at least six
13 months and be accompanied by clinically significant
14 distress or impairment in social, occupational or other
15 important area of functioning.

16 BY ATTORNEY BROOKS:

17 **Q. I, on the other hand, will ask a question that I**
18 **believe is more closely tracked to the DSM-V language,**
19 **which is what is clinically significant distress that**
20 **impairs important area of functioning look like in a**
21 **young child?**

22 ATTORNEY BORELLI: Objection, form.

23 THE WITNESS: Okay. I misheard you. I'm
24 sorry. I didn't hear the gender dysphoria part. I

1 apologize. So in patients with gender dysphoria
 2 sometimes it can be anxiety that keeps them from going
 3 to school. Sometimes it can be anxiety that keeps them
 4 from using public restrooms. Sometimes it is depression
 5 so that they can't get out of bed to function.
 6 Sometimes it's just feeling really uncomfortable and ---
 7 with how they are being treated and what they're allowed
 8 to do in a way that makes it more difficult for them
 9 than a person without gender dysphoria.

10 BY ATTORNEY BROOKS:

11 **Q. In your practice is a full diagnosis of gender**
 12 **dysphoria under the DSM-V criteria a precondition for**
 13 **recommending or supporting social transitioning?**

14 ATTORNEY BORELLI: Objection, form.

15 THE WITNESS: So in my practice the
 16 majority of my patients have socially transitioned
 17 before they come to see me in order to improve their
 18 gender dysphoria. In general, that is something that
 19 their family and their mental health provider decides.
 20 Each individual patient is different and we talk through
 21 whether that is appropriate for each patient.

22 BY ATTORNEY BROOKS:

23 **Q. In your practice is a full DSM-V diagnosis of**
 24 **gender dysphoria a precondition for recommending social**

1 **prescribing puberty blocker for believed gender**
 2 **dysphoria?**

3 ATTORNEY BORELLI: Objection to form.

4 THE WITNESS: Well, in the way that you
 5 stated it, you're saying that the patient already has
 6 gender dysphoria, so yes.

7 BY ATTORNEY BROOKS:

8 **Q. In your practice is the full diagnosis of gender**
 9 **dysphoria under the DSM-V criteria a precondition for**
 10 **prescribing puberty blockers as a therapy for gender**
 11 **dysphoria or gender incongruity?**

12 ATTORNEY BORELLI: Objection, form.

13 THE WITNESS: Yes.

14 BY ATTORNEY BROOKS:

15 **Q. And in your practice is a full diagnosis of**
 16 **gender dysphoria according to the DSM-V criteria a**
 17 **precondition for prescribing cross sex hormones?**

18 ATTORNEY BORELLI: Objection, form.

19 THE WITNESS: They are used to relieve
 20 dysphoria. Typically that would be what we would use
 21 them to do, is to relieve that dysphoria so they would
 22 have that diagnosis. On occasion in my practice the
 23 incongruence does not necessarily cause dysphoria per
 24 se, and yet they still have significant issues that are

1 **transition?**

2 ATTORNEY BORELLI: Objection, form.

3 THE WITNESS: No.

4 BY ATTORNEY BROOKS:

5 **Q. And in your practice is a full DSM-V gender**
 6 **dysphoria diagnosis a precondition for prescribing**
 7 **puberty blockers?**

8 ATTORNEY BORELLI: Objection, form.

9 THE WITNESS: I use puberty blockers for
 10 more than one indication.

11 BY ATTORNEY BROOKS:

12 **Q. Let me ask a better question. In your practice**
 13 **is a full DSM-V gender dysphoria diagnosis a**
 14 **precondition for prescribing puberty blockers as a**
 15 **treatment for gender dysphoria?**

16 ATTORNEY BORELLI: Objection, form.

17 THE WITNESS: So my patients are
 18 evaluated by mental health providers outside the clinic
 19 and inside the clinic. The objective of using puberty
 20 blockers can be used to relieve dysphoria and give them
 21 time to consider their gender identity.

22 BY ATTORNEY BROOKS:

23 **Q. In your practice is a full diagnose of gender**
 24 **dysphoria under the DSM-V criteria a precondition for**

1 impairing their ability to move forward in their lives
 2 in a happy, healthy way. And I might use medications
 3 such as gender-affirming hormones in those cases.

4 BY ATTORNEY BROOKS:

5 **Q. So if I understand correctly, you're saying that**
 6 **at least some cases in your practice you are willing to**
 7 **prescribe cross sex hormones for individuals who do not**
 8 **suffer from gender dysphoria according to the criteria**
 9 **spelled out in DSM-V?**

10 ATTORNEY BORELLI: Objection, form.

11 THE WITNESS: Every patient is different.
 12 Most of my patients have gender dysphoria. All of them
 13 have a transgender identity, and I would treat either of
 14 those.

15 BY ATTORNEY BROOKS:

16 **Q. I think this question can be answered yes or no.**
 17 **Do you prescribe cross sex hormones for some patients**
 18 **who do not suffer from gender dysphoria according to the**
 19 **DSM-V criteria?**

20 ATTORNEY BORELLI: Objection, form.

21 THE WITNESS: I don't think so. I mean,
 22 gender-affirming hormones --- I use hormones for a lot
 23 of different things. Whether you call them gender
 24 affirming or not is --- you know, what is kind of a

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1 thing here. I mean, for people with Klinefelter's, who
 2 are clinically significantly depressed because they have
 3 low testosterone, I prescribe testosterone to improve
 4 their mood, their libido, their muscle strength. For
 5 people who have dysphoria or who have a transgender
 6 identity, I do prescribe those medications. I think
 7 that to be precise in my answers I cannot say it as a
 8 yes or no answer.

9 **Q. Let me ask you to turn to paragraph ten of your**
 10 **report. There you say I have treated approximately 500**
 11 **transgender and intersex young people in my career.**

12 **Do you see that?**

13 A. No, that's not how it's written.

14 **Q. I apologize. I was reading to you the second**
 15 **sentence of paragraph ten, and I believe I read that**
 16 **---**

17 A. Okay.

18 I'm sorry. I was starting at the beginning.

19 **Q. I understand.**

20 A. Yes.

21 **Q. And let's break that out. Of those 500,**
 22 **approximately how many suffered from some form of DSD?**

23 ATTORNEY BORELLI: Objection, form.

24 THE WITNESS: So the --- that I know of,

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1 about paying for that sort of thing because they don't
 2 think it is appropriate to do. So I can't evaluate them
 3 unless they have a symptom of an intersex condition.
 4 Those can present even into your 30s and not be evident
 5 until you are trying to get pregnant. So I think to be
 6 accurate, that's ---.

7 **Q. To your knowledge, almost all of the children**
 8 **that you have treated for gender dysphoria did not show**
 9 **signs of any intersex condition or disorder of sexual**
 10 **development?**

11 ATTORNEY BORELLI: Objection, form.

12 THE WITNESS: To best of my knowledge.

13 BY ATTORNEY BROOKS:

14 **Q. Let me call your attention to page three of your**
 15 **report, which is on page five. And you say there in the**
 16 **second sentence, quote, all of my patients have suffered**
 17 **from persistent gender dysphoria.**

18 **Do you see that?**

19 A. Uh-huh (yes).

20 **Q. Now, I just don't understand that because a few**
 21 **minutes ago you explained to me that some of your**
 22 **patients suffer from gender dysphoria and some of them**
 23 **don't. So can you explain to me what you meant by that**
 24 **statement?**

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1 because we don't evaluate every person necessarily for
 2 an intersex condition, probably --- gosh, it's hard to
 3 estimate. So I think at least 60 in my clinic and then
 4 probably in the hospital at least 10, 15 a year. At
 5 least one a month or so.

6 BY ATTORNEY BROOKS:

7 **Q. Of the 500 transgender intersexual young people**
 8 **that you treated in your career, how many would you**
 9 **estimate suffered from some form of disorder of sexual**
 10 **development?**

11 ATTORNEY BORRELLI: Objection, form.

12 THE WITNESS: Off the top of my head I
 13 can think of one. I have reviewed a referral for a
 14 second one. Gosh. With that many patients, that's the
 15 best I can do. Sorry.

16 BY ATTORNEY BROOKS:

17 **Q. And I take it then that the overwhelming**
 18 **majority, almost all the children that you have seen and**
 19 **treated for gender dysphoria did not suffer from any**
 20 **disorder of sexual development?**

21 A. So at the time of my evaluation of them they
 22 weren't showing any signs of an intersex condition. I
 23 don't necessarily test for intersex conditions on every
 24 person that comes in. Insurance is really kind of funny

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1 ATTORNEY BORELLI: Objection, form.

2 THE WITNESS: Yeah. I learn more and
 3 more every day about the patients who come into my
 4 clinic. I did state that most of my patients have
 5 gender dysphoria. I am finding individuals currently in
 6 my practice who aren't necessarily to the point of
 7 having that clinically significant criteria that is
 8 mentioned in the --- for dysphoria that have a
 9 transgender identification. The majority I would say do
 10 have dysphoria.

11 BY ATTORNEY BROOKS:

12 **Q. You would now say the majority rather than all?**

13 ATTORNEY BORELLI: Objection, form.

14 THE WITNESS: I can't think of --- yeah,
 15 I would say the majority. There would be a very rare
 16 instance and that's why I mentioned it before.

17 ATTORNEY BORELLI: Counsel, just a quick
 18 question about timing and a potential break because
 19 we've been going for a little while.

20 ATTORNEY BROOKS: Right. I'm inclined to
 21 go --- like from my experience, if you stop early for
 22 lunch, then it's an awful long afternoon. So I'd be
 23 inclined to go until 12:30 or so and then break for
 24 lunch.

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1 ATTORNEY BORELLI: Does that work for
2 you? Would you like a break now before we later break
3 for lunch or what is best for you, Dr. Adkins?

4 THE WITNESS: Well, since I'm not a
5 breakfast eater, I would prefer to go a little bit
6 earlier if we can.

7 ATTORNEY BROOKS: We can do it. I just
8 warn you it gets to be a long afternoon.

9 THE WITNESS: I understand.

10 ATTORNEY BROOKS: Let me finish up the
11 line of questioning. Well, should we target noon to
12 stop for lunch?

13 THE WITNESS: That's fine. Thank you.

14 BY ATTORNEY BROOKS:

15 **Q. Let me take you back to the Endocrine Society**
16 **statement on --- back to the biological variable, which**
17 **is Exhibit 7. If you would find that, please. And I'll**
18 **ask you to turn to page 225, second column towards the**
19 **bottom with the heading that reads biological basis of**
20 **diversity and sexual/gender development and orientation.**

21 **Do you see that?**

22 A. I do.

23 **Q. And it reads at the beginning given the**
24 **complexities of the biology of sexual determination and**

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1 is giving them psychological symptoms that we see, which
2 is really common in medicine. We see lots of different
3 medical conditions caused psychological symptoms. I
4 already mentioned one with hypothyroidism.

5 **Q. In the overwhelming number of cases, transgender**
6 **identification is not associated with any physical**
7 **disorder that you as a doctor have become aware of?**

8 ATTORNEY BORELLI: Objection, form.

9 THE WITNESS: I'm sorry. I got
10 distracted. Can you repeat it?

11 BY ATTORNEY BROOKS:

12 **Q. Yes. In the overwhelming majority of patients**
13 **that you have seen, the transgender identity is not**
14 **associated with any physical disorder that you are aware**
15 **of.**

16 **Correct?**

17 ATTORNEY BORELLI: Objection, form.

18 THE WITNESS: I mean, I'm going to need a
19 minute to think because I have seen so many patients
20 that I don't --- I guess it sort of depends on how you
21 define that, right. I am --- distress is physical and
22 psychological. The difference is physical in that
23 they're biologically assigned sex and those
24 characteristics associated are different from their

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1 **differentiation, comma, it is not surprising that there**
2 **are dozens of examples of variations or errors in these**
3 **pathways associated with genetic mutations that are now**
4 **well known to endocrinologists and geneticists. In**
5 **medicine these situations are generally termed disorders**
6 **of sexual development or differences in sexual**
7 **development, closed quote.**

8 **Do you see that?**

9 A. Yes.

10 **Q. Now, in your opinion, a transgender identity is**
11 **not a disorder.**

12 **Am I right?**

13 A. It is a normal variation, in my opinion, of huma
14 --- of humans in general.

15 **Q. It's not a mental disorder?**

16 ATTORNEY BORELLI: Objection, form.

17 THE WITNESS: So you know, they have in
18 the past included it in the DSM, which is categorized as
19 those sorts of things. As far as like psychological,
20 there's such over lap between psychological and the
21 physical --- I guess the best word I can use, but that
22 it's hard to --- it's hard to say. You know, I think
23 people are moving more towards that it is more of a
24 medical problem that is occurring within the person that

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1 gender identity. So it's a bit of a mixture.

2 BY ATTORNEY BROOKS:

3 **Q. Many individuals who suffer from disorder of**
4 **sexual development do not experience gender identity**
5 **that is discordant with their chromosomal sex.**

6 **Correct?**

7 ATTORNEY BORELLI: Objection, form.

8 THE WITNESS: Some do, yes. That is true
9 for some.

10 BY ATTORNEY BROOKS:

11 **Q. Many individuals who experience a transgender**
12 **identity --- I'm sorry. Many individuals who suffer**
13 **from a disorder of sexual development do not experience**
14 **a gender identity that is discordant with their**
15 **chromosomal sex.**

16 **Correct?**

17 ATTORNEY BORELLI: Objection to form.

18 THE WITNESS: So there's, you know, like
19 100 different variations. Some are more likely to have
20 questions about their gender identity than others. It
21 varies by diagnosis.

22 BY ATTORNEY BROOKS:

23 **Q. Okay.**

24 **But my question is a high level one. It is**

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1 true, is it not, that many individuals who suffer from a
2 disorder of sexual development do not experience gender
3 identity that is discordant with their chromosomal sex?

4 ATTORNEY BORELLI: Objection, form.

5 THE WITNESS: In the medical literature
6 the reports vary. Some of the conditions are 90 of them
7 their identity matches with their chromosomal sex and in
8 some cases it's like 30 to 40 percent.

9 BY ATTORNEY BROOKS:

10 Q. And as you have testified, many individuals who
11 experience transgender identity do not suffer from any
12 identified disorders of sexual development?

13 ATTORNEY BORELLI: Objection, form.

14 THE WITNESS: I answered that question
15 already, yeah.

16 BY ATTORNEY BROOKS:

17 Q. The answer is yes?

18 A. Yes, I answered the question already.

19 Q. For clarity I would like you to answer it again.

20 ATTORNEY BORELLI: Objection, form.

21 THE WITNESS: Can you repeat it then?

22 BY ATTORNEY BROOKS:

23 Q. Yes. Many individuals who experience a
24 transgender identity do not suffer from any known

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1 disorder of sexual development?

2 ATTORNEY BORELLI: Objection, form.

3 THE WITNESS: In my experience that is
4 true.

5 BY ATTORNEY BROOKS:

6 Q. You have no knowledge as to the number of
7 children who suffer from a disorder of sexual
8 development who presently attend schools or colleges in
9 West Virginia, do you?

10 ATTORNEY BORELLI: Objection, form.

11 THE WITNESS: I can only rely on the
12 prevalence that's recorded in the medical literature and
13 then assume that West Virginia has the population base
14 that is similar to those medical reports.

15 BY ATTORNEY BROOKS:

16 Q. You, yourself, don't have any actual knowledge
17 either way on that.

18 Correct?

19 ATTORNEY BORELLI: Objection, form.

20 THE WITNESS: I have not been given a
21 list of the number of individuals, no.

22 BY ATTORNEY BROOKS:

23 Q. And you are not opining that B.P.J. suffers from
24 any disorder of sexual development, are you?

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1 ATTORNEY BORELLI: Objection, form.

2 THE WITNESS: I don't know B.P.J.. I
3 have not evaluated B.P.J.. I can't say that about
4 B.P.J..

5 BY ATTORNEY BROOKS:

6 Q. And in fact, you don't know whether any child
7 who is chromosomally XY but suffers from a disorder of
8 sexual development has ever sought to compete in female
9 athletics in West Virginia, do you?

10 ATTORNEY BORELLI: Objection to form.

11 THE WITNESS: There are so many people
12 who have competed or tried to compete over the years. I
13 have not seen a documentation specifically of West
14 Virginia. It's common in athletics.

15 BY ATTORNEY BROOKS:

16 Q. You are not aware of a single case that has ever
17 occurred in West Virginia of a chromosomally XY child
18 seeking to compete in female athletics based on a ---
19 let me ask that question again. You're not aware of any
20 specific instance in which an X --- chromosomally XY
21 child who suffers from a disorder of sexual development
22 has sought to compete in female athletics in West
23 Virginia up to the present?

24 ATTORNEY BORELLI: Objection to form.

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1 THE WITNESS: So some people die with
2 chromosomes XY and look completely female and never
3 knew. So I can't say that anyone could definitely say
4 that, including myself.

5 BY ATTORNEY BROOKS:

6 Q. Well, my question was you are not aware of any
7 case of an XY individual who suffered from a disorder of
8 sexual development seeking to compete in female
9 athletics in West Virginia.

10 Right?

11 ATTORNEY BORELLI: Objection to form.

12 THE WITNESS: Correct.

13 BY ATTORNEY BROOKS:

14 Q. And so let me ask you --- a substantial portion
15 of your expert report goes into all sorts of detail
16 about disorders of sexual development.

17 Correct?

18 A. Correct.

19 Q. In your understanding, what is the point? What
20 does that have to do with any opinion you are offering
21 about issues in this case?

22 ATTORNEY BORELLI: Objection, form.

23 THE WITNESS: So the folks who have
24 differences of sex development have really been our tool

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1 within medicine to understand gender identity and how it
 2 developed over time, especially when there may be some
 3 difference in the effects of the chromosomes, the
 4 hormonal expression and the biological external
 5 reproductive genitalia. And it elicits --- kind of
 6 shows us that there can be some variations that identity
 7 that you might have --- I'm sorry, sex that you might
 8 assign at birth based on one of these categorical things
 9 or a mixture of them may not be exactly what a person
 10 identifies at birth.

11 For example, there are individuals who
 12 are born who never had any hormones, they don't have
 13 external genitalia at all when they're born, and so how
 14 do you decide what sex to assign that person and thus
 15 what gender to assign that person, and so it --- it
 16 helps us understand that there are lots of different
 17 things that go into determining a gender identity and
 18 you may not know it right at birth, certainly not at
 19 conception, but you may begin to understand it as the
 20 person grows older.

21 And so it's important to know that
 22 because when there are differences between those two
 23 things it can cause significant distress and harm to the
 24 individual as they get older if those two are not

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1 matching.

2 BY ATTORNEY BROOKS:

3 **Q. Let me take you to paragraph 28 of your expert**
 4 **report. At the end of that paragraph you state I know**
 5 **from experience with my patients that it can be**
 6 **extremely harmful for transgender youth to be excluded**
 7 **from the team consistent with their transgender**
 8 **identity. Do you see that?**

9 A. It actually says with their gender identity.

10 **Q. If I misspoke, I apologize. For the record, let**
 11 **me just do it again. Quote, I know from experience with**
 12 **my patients that it can be extremely harmful for**
 13 **transgender youth to be excluded from the team**
 14 **consistent with their gender identity, closed quote.**

15 **Do you see that language?**

16 A. I do.

17 **Q. Let me just ask were you a varsity high school**
 18 **or college athlete yourself?**

19 ATTORNEY BORELLI: Objection, form.

20 THE WITNESS: I was.

21 BY ATTORNEY BROOKS:

22 **Q. Now, let me ask what you understand to be the**
 23 **significance of that statement, that is are you offering**
 24 **an opinion in this litigation that the West Virginia law**

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1 **is unreasonable to the extent that it prevents even a**
 2 **single transgender youth from playing in a division**
 3 **consistent with their gender identity?**

4 ATTORNEY BORELLI: Objection, form.

5 THE WITNESS: I'm sorry. That wasn't
 6 clear. Can you ---?

7 BY ATTORNEY BROOKS:

8 **Q. Are you offering an opinion that the West**
 9 **Virginia law is unreasonable to the extent it prevents**
 10 **even a single transgender youth from playing in the**
 11 **division consistent with their gender identity?**

12 ATTORNEY BORELLI: Objection, form.

13 THE WITNESS: Yes.

14 BY ATTORNEY BROOKS:

15 **Q. Are you offering an opinion that West Virginia**
 16 **does not have a strong interest in ensuring fair and**
 17 **safe competition for females in their schools and**
 18 **universities?**

19 ATTORNEY BORELLI: Objection, form.

20 THE WITNESS: I think that would require
 21 me to have to, you know, talk with them about that and
 22 understand a little bit better. I would hope it would
 23 be every one that they were trying to keep safe.

24 BY ATTORNEY BROOKS:

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1 **Q. Are you offering an opinion that West Virginia**
 2 **law is not a reasonable measure to ensure fair and safe**
 3 **competition for females in schools and colleges?**

4 ATTORNEY BORELLI: Objection, form.

5 THE WITNESS: Again, the language is ---
 6 it's not really clear with the female who uses the word
 7 female. It's like using the word sex. It's just not
 8 clear.

9 BY ATTORNEY BROOKS:

10 **Q. Dr. Adkins, I used the word female because**
 11 **earlier in one of these papers where it said woman you**
 12 **said it would work if they said female as a sex**
 13 **indicator to be distinguished from gender identity.**

14 **Do you recall that testimony?**

15 A. I do.

16 **Q. Let me ask the question again using the term**
 17 **female in the way that you meant in that earlier**
 18 **testimony. Are you offering an opinion that the West**
 19 **Virginia law is not a reasonable measure to ensure fair**
 20 **and safe competition for females in schools and colleges**
 21 **in West Virginia?**

22 ATTORNEY BORELLI: Objection, form.

23 THE WITNESS: Yes.

24 BY ATTORNEY BROOKS:

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Q. Can you tell me the examples that you had in mind when you said I know from experience that it can be extremely harmful for transgender youth to be excluded from the team consistent with their gender identity?

A. I can.

Q. Please do.

A. I have patients who have participated in sports with the teams that they identify as. Their fellow students only know them as the gender that they identify with and that they express. If they were asked to participate on a team that matched their sex assigned at birth, then these individuals would, for one, would be on the boys' team and then everyone in school would know that they were transgender. They don't have to know that. It is not any of their business.

Once they are identified as transgender, they are at high risk for being bullied, harassed, sexually assaulted, and leaving school, which leads to poor jobs, poor insurance, homelessness. There are any number of reasons that I would want my patient to be able to participate on the team that identifies with their gender identity to keep them healthy.

Q. Dr. Adkins, your answer said if they were required to play on the team corresponding to their I'll

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say chromosomal sex, their natal sex, which suggests you have not actually seen it happen. Is there a single case you can point me to in which you have observed a patient harmed by being excluded from the team consistent with their gender identity?

A. Yes.

Q. Can you tell me that area?

ATTORNEY BORELLI: Objection, form.

THE WITNESS: Well, one of my patients who had been on middle school sports teams that matched their gender identity was then asked to change. And they didn't feel comfortable going with the other individuals because their identity would be discovered, their --- individuals would know that they were transgender. No one at the time knew and still to this day don't know because they chose not to participate rather than be on the team that didn't match their gender identity.

BY ATTORNEY BROOKS:

Q. And when and what state did these events occur?

A. North Carolina.

ATTORNEY BORELLI: Objection to form.

BY ATTORNEY BROOKS:

Q. That's where, when? That's your Counsel's

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objection.

A. North Carolina in --- for this particular patient, three years ago. I have patients that come in every day who this applies.

Q. Dr. Adkins, given that you're testifying under oath and trying to be accurate, is it true that you have patients come in every day that this applies to?

ATTORNEY BORELLI: Objection, form.

BY ATTORNEY BROOKS:

Q. Aren't we getting a little carried away here?

ATTORNEY BORELLI: Objection, form.

THE WITNESS: I do like to be precise.

BY ATTORNEY BROOKS:

Q. Thank you.

A. In clinic, most days when I'm in clinic I see a patient who doesn't participate in athletics because of the requirement that they go to participate in an area that is for their assigned sex at birth. Most days I'm in a gender clinic.

Q. And what you state in your document, in your report here, is that you know from experience that being excluded from the team consistent with their gender identity can be, quote, extremely harmful to transgender youth. You have described to me students who choose not

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to participate in athletics. Beyond that, can you give me examples of extreme harm that has resulted from such policies?

ATTORNEY BORELLI: Objection, form.

THE WITNESS: You know, some of that would require a bit of speculation because I wouldn't know what would happen to those individuals if they remain in the sport.

BY ATTORNEY BROOKS:

Q. I'm not asking you to speculate.

A. So can you re-ask the question so I can kind of figure out how to answer it better.

Q. I'll re-ask it and maybe that you're not able to answer it, but can you identify for me specific extreme harm that individual patients have suffered as a result of not being able to participate in the team consistent with their gender identity?

ATTORNEY BORELLI: Objection, form.

THE WITNESS: So I have had patients who have no longer participated in sports, gained weight, become obese and developed type two diabetes. I have seen that around --- I can think of at least two examples. And then, you know, that's a chronic life long disease that can lead to amputation and all kinds

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1 of other harms. And let's see, what other things.

2 I have seen patients with --- who were no
3 longer happy at their school and because the time that
4 they were identified as transgender were asked to leave
5 their sport, their friend groups changed. And you know,
6 it's tough in school. There are kids who have --- and
7 that kind of can push them down the slope of suicidal
8 ideation and depression and those sorts of things. I
9 mean, I have to think longer for other examples. Those
10 are two.

11 BY ATTORNEY BROOKS:

12 **Q. Rather than starting something else, should we**
13 **break now for lunch?**

14 ATTORNEY BORELLI: That works.

15 VIDEOGRAPHER: Going off the record. The
16 current time reads 11:54 a.m. Eastern Standard Time.
17 OFF VIDEO

18 ---
19 (WHEREUPON, A PAUSE IN THE RECORD WAS HELD.)

20 ---

21 ON VIDEO

22 VIDEOGRAPHER: We're back on the record.
23 Current time reads 12:57 p.m. Eastern Standard Time.

24 BY ATTORNEY BROOKS:

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1 **recently the NCAA policy for a decade at the collegiate**
2 **level was that XX --- XY individuals, males, to use that**
3 **terminology, could compete based on gender identity in**
4 **women's divisions only after they had suppressed**
5 **testosterone for at least a year?**

6 ATTORNEY BORELLI: Objection, form.

7 THE WITNESS: I don't know the details of
8 NCAA. I just don't.

9 BY ATTORNEY BROOKS:

10 **Q. Are you aware generally that some athletic**
11 **leagues have a requirement that biological males may**
12 **compete in women's athletics based on gender identity**
13 **only after suppressing testosterone for some period of**
14 **time?**

15 ATTORNEY BORELLI: Objection, form.

16 THE WITNESS: I have heard that there are
17 individuals who are allowed to participate based on
18 their gender identity and that there's some comment
19 about hormone suppression.

20 BY ATTORNEY BROOKS:

21 **Q. And do you have college-age transgender patients**
22 **yourself?**

23 A. I do.

24 **Q. Does your statement that we looked at in**

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1 **Q. Okay.**

2 **Dr. Adkins, welcome back from lunch. On we go.**
3 **We're going to have a long afternoon. Let me mark as**
4 **Exhibit 10 what we have previously identified as tab 16,**
5 **which is an article dated January 10, 2022 from the**
6 **Washington Post entitled A Transgender College Swimmer**
7 **is Shattering Records, Sparking a Debate Over Fairness.**

8 ---
9 (Whereupon, Adkins Exhibit 10, 1/10/22
10 Washington Post Article, was marked for
11 identification.)

12 ---

13 BY ATTORNEY BROOKS:

14 **Q. Dr. Adkins, let me just ask generally, you're**
15 **aware of recent events in the news involving Leah**
16 **Thomas's competition in NCAA swimming.**

17 **Correct?**

18 ATTORNEY BORELLI: Objection, form.

19 THE WITNESS: I am aware of various
20 pieces of that.

21 BY ATTORNEY BROOKS:

22 **Q. And I'm not going to try to turn you into an**
23 **expert on Lia Thomas, but you're just aware of that**
24 **narrative. Are you generally aware that at least until**

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1 **paragraph 28 of your report that it can be extremely**
2 **harmful for transgender youth to be excluded from the**
3 **team consistent with their gender identity hold true in**
4 **your opinion at to collegiate level? And I was quoting**
5 **from paragraph 29.**

6 ATTORNEY BORELLI: To clarify, you just
7 said 29 --- 28, paragraph 28?

8 ATTORNEY BROOKS: It is paragraph 28. I
9 apologize.

10 ATTORNEY BORELLI: Thank you. I can't
11 remember if I lodged an objection. Objection to form.

12 THE WITNESS: And the question was?

13 BY ATTORNEY BROOKS:

14 **Q. The question was does your assertion in**
15 **paragraph 28 of your report that you know from**
16 **experience the patients --- that it can be extremely**
17 **harmful for transgender youth to be excluded from the**
18 **team consistent with their gender identity apply to**
19 **college-age individuals as well as high school or**
20 **younger individuals?**

21 ATTORNEY BORELLI: Objection, form.

22 THE WITNESS: In my experience, that ---
23 yes.

24 BY ATTORNEY BROOKS:

Q. Do you have any opinion as to whether a policy that requires biologically male athletes to suppress testosterone for a certain period of time or to a certain level of testosterone prior to competing in women's or girls' athletics is reasonable or unreasonable?

ATTORNEY BORELLI: Objection, form.

THE WITNESS: So you're asking me if that's my opinion? I'm sorry. Could you just repeat the question?

BY ATTORNEY BROOKS:

Q. Do you have an opinion --- do you have an opinion as to whether a policy that requires biologically male athletes to suppress testosterone either for a certain period of time or down to a certain level before they can be eligible to compete in women's athletics based on gender identity is reasonable or unreasonable?

ATTORNEY BORELLI: Objection, form.

THE WITNESS: It gets tricky. I am --- you know, when you start throwing in sort of people with PCOS and people with intersex conditions and --- it gets tricky. So it's harder for me to answer.

I think the question was do I have an

opinion if it's reasonable or not reasonable? Is that the question?

BY ATTORNEY BROOKS:

Q. That is.

A. Okay.

In some cases it might be reasonable and some cases it might not be reasonable.

Q. If we put on one side and exclude from consideration individuals who suffer from any form of disorder of sexual development, do you believe that a policy that requires biologically male athletes to suppress testosterone either for a certain period of time or down to a certain level before they can be eligible to play in women's athletics based on gender identity is reasonable or unreasonable?

ATTORNEY BORELLI: Objection, form.

THE WITNESS: So you know, for those who are assigned male at birth, it depends on where they are, you know, and what sport they're doing and what's involved. There are a number of caveats that could be thrown in there along those lines.

BY ATTORNEY BROOKS:

Q. Is it you don't know what you think about that?

ATTORNEY BORELLI: Objection to form.

THE WITNESS: I think you misunderstood the answer that I gave. It would really depend on a specific case.

BY ATTORNEY BROOKS:

Q. Well, let's look at a specific case. I have put in front of you Exhibit 10, this Washington Post article from January 10, 2022 about Lia Thomas, who, according to the headline, is shattering records. Let me ask you to turn in that article to page three. And there it --- if we look at the third paragraph, the one that begins her fastest 200 yard freestyle, and the second sentence --- or the third sentence says that's the fastest time by any female college swimmer this year, .64 seconds faster than Olympian Torri Huske. And it continues, quote, Thomas has also posted the nation's best 500 yard freestyle, timed this season at four minutes, 34.06 seconds, nearly three seconds faster than Olympian Brooke Forde.

Do you see that?

A. Uh-huh (yes).

Q. And these records were set after Lia Thomas had qualified under the NCAA requirement of testosterone suppression for one year. So my question on the specific sport for you is, is it your view that a policy

that permits Thomas to compete in the women's division against competitors who are biologically female is fair?

ATTORNEY BORELLI: Objection, form.

THE WITNESS: So you will note in the paragraph above it also says that her time slowed down once she had this happened and she was suppressing her testosterone. You know, I --- I don't want to use that word. There are so many things that go into athletic performance and your time that's not totally related to your sex assignment at birth or your current hormonal status, practice, you know, training, whether you had an opportunity to get started at a young age, a lot of variables that aren't related to their current hormones.

BY ATTORNEY BROOKS:

Q. Do you have an opinion as to whether a policy that permits Lia Thomas to compete against those born female in swimming is fair?

ATTORNEY BORELLI: Objection to form.

Counsel, I think we're starting to get outside the scope. The witness can answer this question if she can, but we're treading on that territory.

THE WITNESS: So in that there are very few transgender individuals who are involved and there are lots and lots and lots of opportunities for those

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1 assigned female at birth to compete, I think it is fair.

2 BY ATTORNEY BROOKS:

3 **Q. And let me call your attention two paragraphs**
 4 **down where it begins everybody wants, and quoting**
 5 **Michael Joyner, who identifies as a physiologist at the**
 6 **Mayo Clinic. Are you familiar with the reputation of**
 7 **the Mayo Clinic?**

8 A. Yes.

9 **Q. It is a high reputation.**

10 **Am I correct?**

11 ATTORNEY BORELLI: Objection, form.

12 THE WITNESS: In general, people think it
 13 has a good reputation.

14 BY ATTORNEY BROOKS:

15 **Q. If you read this paragraph, Dr. Joyner says,**
 16 **quote, everybody wants to maximize each individual's**
 17 **opportunity to participate and be as inclusive as**
 18 **possible, one of the researchers, Michael Joyner, a**
 19 **physiologist at the Mayo Clinic, said in an interview.**
 20 **And his quote continues, but how do you balance that**
 21 **inclusion at the individual level with the fairness to**
 22 **the entire field? That's really the split the baby**
 23 **question, closed quote.**

24 **Do you see that language?**

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1 A. I do.

2 **Q. Do you agree that the question of fairness that**
 3 **Dr. Joyner addresses there is, in fact, a tough question**
 4 **on which reasonable people could disagree?**

5 ATTORNEY BORELLI: Objection, form. And
 6 counsel, I need to renew my objection as to scope.

7 ATTORNEY BROOKS: You can have a standing
 8 objection as to scope, but I can pursue this line of
 9 questioning.

10 THE WITNESS: I would like to take a
 11 moment to read the whole article, please.

12 ATTORNEY BORELLI: Counsel, can you point
 13 me to the portion of the report where she offers
 14 opinions about things?

15 ATTORNEY BROOKS: She has offered the
 16 opinion in the report that denying participation is
 17 extremely harmful. She has testified on the record that
 18 in her view, a policy that permits even one transgender
 19 individual from playing according to their gender
 20 identity, that she has an opinion, but she is offering
 21 an opinion that that is an unreasonable policy. I
 22 intend to examine that thoroughly. Scope is not tightly
 23 limited on expert depositions, I assure you.

24 ATTORNEY BORELLI: I'm going to stand on

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1 my objection. We'll see where the line of questioning
 2 goes and we'll confer again if we need to.

3 ATTORNEY TRYON: This is Dave Tryon. I
 4 would ask that if there are further speaking objections
 5 or discussions about scope, it be done outside the
 6 presence of the witness.

7 BY ATTORNEY BROOKS:

8 **Q. Let me ask you this without taking the time ---**
 9 **without reading the entire document, do you agree or**
 10 **disagree with Doctor Joyner that the question of whether**
 11 **a biologically male individual such as Lia Thomas should**
 12 **be permitted to compete in the women's division against**
 13 **biological females is a tough question that reasonable**
 14 **people can differ?**

15 ATTORNEY BORELLI: Objection to form.

16 ATTORNEY BROOKS: That's enough. That's
 17 all you may say.

18 ATTORNEY BORELLI: Excuse me. Counsel,
 19 the witness has ---.

20 ATTORNEY BROOKS: You may say objection
 21 to form.

22 ATTORNEY BORELLI: The witness has ---
 23 the witness asked to read the entire document.

24 ATTORNEY BROOKS: I am asking a question

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1 free and apart from the document. And I'm entitled to
 2 do that.

3 ATTORNEY BORELLI: I'm not persuaded that
 4 this is free and apart from the document.

5 ATTORNEY BROOKS: I will make it 100
 6 percent apart from the document.

7 ATTORNEY BORELLI: Can you please restate
 8 the question to do that? Thank you.

9 BY ATTORNEY BROOKS:

10 **Q. Dr. Adkins, do you agree that the question of**
 11 **whether a biological male such as Lia Thomas should be**
 12 **permitted to compete against biological females in the**
 13 **collegiate level is a tough question on which reasonable**
 14 **people can differ?**

15 ATTORNEY BORELLI: Objection, form.
 16 Counsel, you just put an article ---.

17 ATTORNEY BROOKS: That's enough of the
 18 speaking objection. I can take the article back away
 19 from the witness. My question makes no reference to the
 20 article.

21 ATTORNEY BORELLI: Your question makes
 22 reference to ---.

23 ATTORNEY BROOKS: Counsel, that's enough
 24 speaking objections. You are violating the Federal

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1 Rules.

2 ATTORNEY BORELLI: I strongly disagree
3 with that characterization. I don't think that's
4 correct. You're asking questions about a subject of the
5 article. Physically removing the article from the
6 witness doesn't remove that question from the subject of
7 the article.

8 ATTORNEY BROOKS: I don't have to show
9 the witness every article about a topic. The witness is
10 aware of Lia Thomas. I'm asking a question about Lia
11 Thomas and competitive swimming. The witness can
12 answer.

13 ATTORNEY BORELLI: I stand on my
14 objection.

15 ATTORNEY BROOKS: You can do so.

16 THE WITNESS: Sorry. Thank you.

17 You know, everybody has their opinion
18 based on their experience and their knowledge and
19 they're allowed to state that and confer with others
20 about it. Whether or not it is reasonable is a whole
21 other question, and that involves perspective and
22 background. So with that caveat, I could see people
23 having different opinions on this particular matter.

24 BY ATTORNEY BROOKS:

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1 **harmful for patients, deeply harmful, for transgender**
2 **youth to be excluded from the team consistent with their**
3 **gender identity. In your view is a policy that requires**
4 **transgender youth who are biologically male to suppress**
5 **testosterone before they can be eligible to compete on a**
6 **team consistent with their gender identity extremely**
7 **harmful to youth?**

8 ATTORNEY BORELLI: Objection, form.

9 THE WITNESS: I was trying to catch up
10 with you with finding the page.

11 BY ATTORNEY BROOKS:

12 **Q. That was a complicated question. I will ask it**
13 **again.**

14 A. Thank you.

15 **Q. In your view is a policy that requires a**
16 **biological male who experiences a female gender identity**
17 **to suppress testosterone prior to becoming eligible to**
18 **compete in the women's division extremely harmful?**

19 ATTORNEY BORELLI: Objection, form.

20 THE WITNESS: Suppression of the
21 testosterone for my practice isn't the --- you know, the
22 harm. It is the exclusion that does most of the harm.
23 I think I answered that.

24 BY ATTORNEY BROOKS:

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1 **Q. Thank you.**

2 ATTORNEY BROOKS: Can we mark as Exhibit
3 11 a document previously identified as tab 17, article
4 from the publication named Out Sports that is dated
5 January 9, 2022.

6 ---

7 (Whereupon, Adkins Exhibit 11, 1/9/22
8 Out Sports Article, was marked for
9 identification.)

10 ---

11 BY ATTORNEY BROOKS:

12 **Q. Dr. Adkins, have you heard the name Iszac Henig?**

13 A. No.

14 **Q. Did you hear any news items that a transgender**
15 **male competing in the female division that is genetic**
16 **female, male identity, transgender male competing in the**
17 **female division, beat Lia Thomas, a transgender female**
18 **competing in the female division, in certain races?**
19 **Have you heard that?**

20 A. No.

21 ATTORNEY BORELLI: Objection, form.

22 BY ATTORNEY BROOKS:

23 **Q. All right.**

24 **You stated in paragraph 28 that it can be**

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1 **Q. Let me try to --- in light of what you just**
2 **said, let me ask a better question. In your view, is a**
3 **policy that excludes a biological male who identifies as**
4 **a woman from competition in the women's division unless**
5 **and until that biological male has suppressed**
6 **testosterone extremely harmful?**

7 ATTORNEY BORELLI: Objection to form.

8 THE WITNESS: So the sex assigned at
9 birth for this person would be male and would need time
10 to suppress testosterone, which takes time and leads to
11 limitations in participation of sports, in competition.
12 I think that disadvantages most athletes if they have to
13 take time off for any kind of medical treatment for
14 their preparation. In that fashion it would be harmful
15 to the athlete.

16 BY ATTORNEY BROOKS:

17 **Q. And I believe you testified you don't have any**
18 **simple single opinion as to whether it would**
19 **nevertheless be reasonable despite being harmful to that**
20 **athlete?**

21 ATTORNEY BORELLI: Objection to form.

22 THE WITNESS: I don't think that's what I
23 said.

24 BY ATTORNEY BROOKS:

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1 **Q. All right.**

2 **Then I'll ask a different to avoid**
 3 **uncertainty. Do you have an opinion as to whether,**
 4 **despite the harm that you have described, a policy that**
 5 **requires suppression of testosterone in order for such**
 6 **an individual to be eligible to compete in a women's**
 7 **division is reasonable?**

8 ATTORNEY BORELLI: Objection to form.

9 THE WITNESS: That's complicated. I
 10 apologize for not answering yes or no. I just ---
 11 sometimes you get lost in your question. So I don't
 12 think it's reasonable to ask them not to participate.
 13 They need time to practice and participate like all
 14 their peers that are practicing and competing at the
 15 time.

16 BY ATTORNEY BROOKS:

17 **Q. So your testimony as you sit here today is that**
 18 **even as a biologically male athletes, natal male**
 19 **athletes who have not suppressed testosterone at all, it**
 20 **is not reasonable to exclude them from participation in**
 21 **the women's division?**

22 ATTORNEY BORELLI: Objection, form.

23 THE WITNESS: To those who are assigned
 24 female at birth, you're again going to cause them harm

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1 by not allowing them to participate and not be affirmed
 2 in their gender. That --- part of it is a big part of
 3 what it means to improve their overall health and what
 4 we do to care for these individuals. You're also
 5 marking them by saying that they are, you know,
 6 transgender and that is going to cause all kinds of
 7 kerfuffle and people are not nice to them. It can cause
 8 extreme harm to them in that way.

9 BY ATTORNEY BROOKS:

10 **Q. In the beginning of your answer you referred to**
 11 **individuals identified as female at birth.**

12 A. Assigned female at birth.

13 **Q. And I think that your answer was speaking to**
 14 **individuals who are assigned male at birth.**

15 A. Applies to both.

16 ATTORNEY BORELLI: Objection, form.

17 BY ATTORNEY BROOKS:

18 **Q. Then let me re-ask my question because I asked**
 19 **about individuals assigned male at birth. As to those**
 20 **individuals, is it your opinion that a policy that**
 21 **requires them to suppress testosterone prior to becoming**
 22 **eligible for participation in the women's division or**
 23 **high school level girls division is unreasonable?**

24 ATTORNEY BORELLI: Objection, form.

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1 THE WITNESS: For an assigned male at
 2 birth, suppressing testosterone, so we're clear because
 3 you used the word they in that particular question, I
 4 think it is unreasonable for them to be taken out of
 5 their sport. I think it causes harm. We see evidence
 6 that it causes harm with regard to depression, anxiety,
 7 suicidality. It also causes metabolic harm, changes in
 8 the performance.

9 ATTORNEY BROOKS: Let me mark this
 10 Exhibit 11, an article by Duke Professor Doriane
 11 Lambelet Coleman, Michael Joyner and Donna Lopiano, the
 12 Duke Journal of Gender Law and Policy.

13 ---

14 (Whereupon, Adkins Exhibit 11, Duke
 15 Journal of Gender Law and Policy
 16 Article, was marked for identification.)

17 ---

18 VIDEOGRAPHER: Counsel, I didn't fully
 19 catch which document that was? Did you say it was tab
 20 19?

21 ATTORNEY BROOKS: It is tab 19, that's
 22 correct.

23 VIDEOGRAPHER: Thank you.
 24 BY ATTORNEY BROOKS:

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1 **Q. Dr. Adkins, let me ask whether you have before**
 2 **now been aware of this article by Duke Professor Coleman**
 3 **and others?**

4 A. I have heard of an article, yes.

5 **Q. Do you know Professor Coleman?**

6 A. I met Professor Coleman once.

7 **Q. And have you ever seen this article before**
 8 **today?**

9 A. I haven't looked at it.

10 **Q. Probably my questioning about it will be very**
 11 **short. Let me ask you to turn to page 88. At the very**
 12 **bottom of page 88 is a sentence that runs over into 89**
 13 **that reads as follows. If elite sport were coed or**
 14 **competition were open, even the best female would be**
 15 **rendered invisible by the sea of men and boys who would**
 16 **surpass her, closed quote. Do you see that language?**

17 A. I do.

18 **Q. Do you have the expertise to evaluate whether**
 19 **that is true or false?**

20 ATTORNEY BORELLI: Object to form.

21 THE WITNESS: The --- well, again, you
 22 are picking one sentence out of a whole article. And I
 23 know that Dr. Coleman has actually called into question
 24 some of the information from this report in particular.

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1 And without knowing which things I can't really rely on
2 this document to say whether it's true. And that's not
3 --- that's her expertise.

4 BY ATTORNEY BROOKS:

5 **Q. Well, that's my question. Do you believe that**
6 **it is within your expertise to evaluate that sort of**
7 **question about sporting performance?**

8 ATTORNEY BORELLI: Object to the form.

9 THE WITNESS: Again, you are picking one
10 sentence. I have some professional experience with
11 assisting people in improving their physiology with
12 regard to, you know, muscle mass, fat mass. Sport would
13 be outside what I would have to say --- this
14 specifically.

15 BY ATTORNEY BROOKS:

16 **Q. I'm not sure that was a compete sentence, let me**
17 **ask a follow-up question. Is it the case that it is ---**
18 **you consider it outside your professional expertise to**
19 **evaluate the truth or falsity of this supposed assertion**
20 **that, quote, if elite sport were coed or competition**
21 **were open, even the best female would be rendered**
22 **invisible by the sea of men and boys who would surpass**
23 **her, closed quote?**

24 ATTORNEY BORELLI: Object to form.

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1 information regarding this. I don't think that there's
2 a way to answer that question with the data that we have
3 at this time.

4 BY ATTORNEY BROOKS:

5 **Q. Is it true in your practice that most of your**
6 **biologically male patients present at your clinic let's**
7 **say after age 13?**

8 ATTORNEY BORELLI: Object to form.

9 THE WITNESS: Most of my patients who are
10 assigned which at birth did you say?

11 BY ATTORNEY BROOKS:

12 **Q. Male.**

13 A. After age what again?

14 **Q. I chose 13.**

15 ATTORNEY BORELLI: Same objection.

16 THE WITNESS: I would agree with that.

17 BY ATTORNEY BROOKS:

18 **Q. And implications of that are that those**
19 **individuals have already experienced --- well, let me**
20 **ask it differently. In your experience or based on your**
21 **training, either one, on average what Tanner stage are**
22 **boys at by the time they have finished their 13th year?**

23 ATTORNEY BORELLI: Objection, form.

24 THE WITNESS: So assigned male at birth?

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1 THE WITNESS: That's not been my
2 experience. That's not what we're seeing in sports. I
3 can't say anything else about whether or not I could
4 assess it. That would be my only way to assess it based
5 on my experience.

6 BY ATTORNEY BROOKS:

7 **Q. What is your professional training or research**
8 **that qualifies you to evaluate the impact that would be**
9 **experienced in athletics on biological women if sport**
10 **were coed or competition were open?**

11 ATTORNEY BORELLI: Objection to form.

12 THE WITNESS: Yeah. I don't study
13 sports.

14 BY ATTORNEY BROOKS:

15 **Q. You are an endocrinologist by training.**
16 **Is that correct?**

17 A. I am.

18 **Q. Do you have an expert opinion as to what lasting**
19 **or legacy --- strength and athletic capability if any**
20 **way natal males continue to enjoy over natal females**
21 **after suppressing testosterone?**

22 ATTORNEY BORELLI: Objection, form.

23 THE WITNESS: So there's a lack of
24 research in this area. I feel like we need more

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1 BY ATTORNEY BROOKS:

2 **Q. Correct.**

3 A. The average at 13 is Tanner 3.

4 **Q. By the end of age 13 you would say Tanner 3?**

5 A. It is really 13 and a half is what the published
6 literature says.

7 **Q. So presumably by the end of their 13th year,**
8 **when they're older than 13 they're either in a later**
9 **stage of Tanner stage 3 or moving into Tanner stage 4?**

10 ATTORNEY BORELLI: Objection, form.

11 THE WITNESS: On average, but there is
12 such a wide variety of --- they can present with puberty
13 from 9 to 14. And they all move differently at
14 different rates and different times, so there's a lot of
15 variety in the 13 and a half year olds I see in my
16 clinic who are assigned male at birth.

17 BY ATTORNEY BROOKS:

18 **Q. And my question was about averages. So on**
19 **average, by the end of the 13th year the patients you**
20 **see would be towards the end of Tanner stage 3 or**
21 **entering into Tanner stage 4?**

22 ATTORNEY BORELLI: Objection, form.

23 THE WITNESS: On average, yeah.

24 BY ATTORNEY BROOKS:

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Q. And by that time those biologically male who have under gone effects on skeleton, on height, on musculature, typical of or sometimes referred to as verilization.

Correct?

ATTORNEY BORELLI: Objection, form.

THE WITNESS: So at 13 and a half the average assigned male at birth is dead center their growth spurt, so they've only gone through about half of it. They still have about half of it left.

BY ATTORNEY BROOKS:

Q. Okay.

And do you have any knowledge as to whether they have also undergone changes in heart and lung size and bone strength that are typical of male puberty?

ATTORNEY BORELLI: Objection, form.

THE WITNESS: So I can't comment about the heart and the lung. The lung size is typically proportioned to the body size. So in that way, halfway. Bone strength, however, there's more information about. And you know, people don't get their peak bone mass until they're 30, so they have a long way to go starting from 13 and a half before they reach that.

BY ATTORNEY BROOKS:

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anything specific.

BY ATTORNEY BROOKS:

Q. Well, as I tell witnesses I am defending I don't know is always a great conversation stopper. Is it your testimony that you don't actually know how much bone densification has occurred by the end of the 13th year in those in biological males?

ATTORNEY BORELLI: Objection, form.

THE WITNESS: I haven't looked at it ---

I haven't looked at it recently. There are --- that's

an --- interpretations that we use and it comes with our reports and I would have to look at that to rely on it.

BY ATTORNEY BROOKS:

Q. Have you heard the name Joanna Harper?

A. No.

Q. Let me see tab 24.

ATTORNEY BROOKS: Marking 13, what was previously designated tab 24, article published December 2020 by Emma Hilton and Tommy Lundberg, titled Transgender Women in the Female Category of Sport: Perspectives on Testosterone Suppression and Performance Advantage.

(Whereupon, Adkins Exhibit 13, 2020

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Q. Have, on average, males experienced significant bone densification by age --- by the end of their 13th year?

ATTORNEY BORELLI: Objection, form.

THE WITNESS: Depends on your definition of significant. Clinically significant, medically significant? Is it, you know, significant with regard to the biological assay. Is it you're talking about which would --- Dexs scans?

BY ATTORNEY BROOKS:

Q. I will take clinically significant.

ATTORNEY BORELLI: Objection to form.

THE WITNESS: Can you repeat your question with that?

BY ATTORNEY BROOKS:

Q. Yes. On average, have biological males experienced clinically significant bone densification by the end of their 13th year?

ATTORNEY BORELLI: Objection, form.

THE WITNESS: Over their life span they do continue to increase their bone density. The peak of bone density is much later, so every person is different as to where they are in that density scale. At the middle of puberty, I mean, I would be guessing if I said

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Hilton and Lundberg Article, was marked for identification.)

BY ATTORNEY BROOKS:

Q. And Dr. Adkins, let me ask again whether you know the name Emma Hilton or Tommy Lundberg.

A. No.

Q. Can I take it then you have not seen this article before?

A. I wouldn't say that one equals the other. I'm terrible with names, to be quite honest.

Q. Let me ask --- therefore, I retract that question. Do you recall seeing this article before today?

A. No.

Q. Okay.

Then again, we will be short. You see the title. I understand you have not seen it. Let me ask you to turn to page 201. About an inch down in the first column, summarizing other research the authors of this paper write an extensive review of fitness from over 85,000 Australian children age 9 to 17 years old show that, compared with 9 year old females, 9 year old males were faster over short sprints, 9.8 percent, and

1 one mile, 16.6 percent. Could jump 9.5 percent further
 2 from a standing start, a test of explosive power.
 3 Quote, could complete 33 more push ups in 30 seconds and
 4 had 13.8 percent stronger grip, closed quote. Do you
 5 see that language?

6 A. Yeah.

7 Q. And my question for you is you have yourself any
 8 knowledge as to whether the facts recited there are
 9 scientifically accurate or inaccurate?

10 ATTORNEY BORELLI: Objection, form.

11 THE WITNESS: So whenever I'm reviewing
 12 an article, and again, I have not seen the full article,
 13 it's reporting on population from Australia, which I
 14 usually use the population that I'm talking about when I
 15 am using that information to help guide my practice. So
 16 I'm not completely sure that would be a thing that would
 17 come into my mind when looking at this. Is this the
 18 same population in Australia you we're seeing here?
 19 That's one of my first questions about it.

20 BY ATTORNEY BROOKS:

21 Q. And I understand that everybody in Australia is
 22 upside down, but my question simply was do you have any
 23 knowledge as to whether, as a matter of science, these
 24 assertions are true or false?

1 ATTORNEY BORELLI: Objection, form.

2 THE WITNESS: They have published it in a
 3 peer reviewed journal I think. I would have to look if
 4 this is a peer reviewed journal because some are not.
 5 If those things are true, the assumption we make in
 6 medicine is that they are true.

7 BY ATTORNEY BROOKS:

8 Q. You are a very trusting person to peer reviewed
 9 journals.

10 A. They get redacted all the time. So again, my
 11 previous thing is you got to look at all of the pieces,
 12 et cetera.

13 Q. In general --- in general, do you consider that
 14 your expertise extends to the question of how much
 15 athletic advantage biological males enjoy over
 16 biological females prior to puberty, if any?

17 ATTORNEY BORELLI: Objection, form.

18 THE WITNESS: I know limited amount of
 19 that information. We all learn a little bit, but I
 20 wouldn't say that I could say, you know, I know
 21 everything that exists.

22 BY ATTORNEY BROOKS:

23 Q. What is your source of information in that area?

24 ATTORNEY BORELLI: Objection, form.

1 THE WITNESS: Generally education in
 2 medical school and then looking at hormonal effects in
 3 muscle and bone and those things. But not in particular
 4 these specific tests.

5 BY ATTORNEY BROOKS:

6 Q. Do you have any opinion as to whether prior to
 7 puberty natal males have strength, speed or other
 8 athletic advantages over natal females on average?

9 ATTORNEY BORELLI: Objection, form.

10 THE WITNESS: Gosh, there's such a wide
 11 variety of humans. And I know you are asking on
 12 average. I don't think I feel comfortable answering the
 13 question.

14 BY ATTORNEY BROOKS:

15 Q. All right.

16 You have offered the opinion --- we can go back
 17 to paragraph 28, I keep referring to the same, that
 18 refusing to permit a transgender individual to
 19 participate in a sport category corresponding to their
 20 gender identity can be or is extremely harmful. From
 21 your medical point of view, what do you consider to be
 22 the implications of that opinion when it comes to
 23 individuals who claim both a male and a female gender
 24 identity?

1 ATTORNEY BORELLI: Objection, form.

2 BY ATTORNEY BROOKS:

3 Q. Must they be permitted to play in either
 4 category according to their choice.

5 ATTORNEY BORELLI: Objection, form.

6 THE WITNESS: That is a good question. I
 7 would have to talk to the individual person to really
 8 know what harm they might think --- feel that they are
 9 having if they were kept from one versus the other. I
 10 think that would be a very individualized question. I
 11 can't answer it with my experience.

12 BY ATTORNEY BROOKS:

13 Q. All right.

14 Would you have the same answer with regard to
 15 an individual who experiences neither gender identity,
 16 neither male or female?

17 ATTORNEY BORELLI: Objection, form.

18 THE WITNESS: So people who identify as a
 19 agender, you know, there is such a wide variety there of
 20 their life experience, their pubertal experience, their
 21 current hormones and what things they might be taking or
 22 not taking, where their levels are. I think it --- and
 23 you know, again, I think --- you would have to look at
 24 the individual person.

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1 BY ATTORNEY BROOKS:

2 **Q. Is it your opinion, Dr. Adkins, that the only**
3 **reasonable policy for schools, colleges or athletic**
4 **leagues would be to consider eligibility for transgender**
5 **individuals on a case by case basis, taking into account**
6 **all of the types of complexities you just described?**

7 ATTORNEY BORELLI: Objection, form.

8 THE WITNESS: I think that that is
9 completely possible for them to do given the small
10 population that we're talking about. And I think it is
11 reasonable for them to take the time to do that with
12 each individual human.

13 BY ATTORNEY BROOKS:

14 **Q. Do you think that such a policy is the only**
15 **reasonable policy?**

16 ATTORNEY BORELLI: Objection, form.

17 THE WITNESS: Yeah, I'm going to venture
18 that, yes.

19 BY ATTORNEY BROOKS:

20 **Q. In your view --- as you've testified earlier a**
21 **bit about the category of gender fluid individuals. You**
22 **mentioned the term. Are you familiar with that**
23 **category, concept of gender fluid individuals?**

24 ATTORNEY BORELLI: Objection, form.

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1 little bit. They sometimes are frilly, like me, very
2 feminine-ish, and on days --- and feel that --- and
3 other days they might wear a suit and tie. And that
4 gender expression may align with their gender identity I
5 guess, to express themselves a different way. It's just
6 a matter that, you know, some days I feel like a girl
7 and some days I don't. And I actually also sometimes
8 have that feeling of, you know, a more girly one day
9 than the other. I don't know. I'm not implying that
10 I'm gender fluid, but that particular person is an
11 example of what might happen for someone who's gender
12 fluid.

13 **Q. Let me ask you to find. I told you we'd dig for**
14 **it again, the Endocrine Society 2017 Guidelines, which**
15 **are Exhibit 4.**

16 A. I'm not saying my experience is the one and
17 only, one all be all.

18 **Q. And I'll call your attention to page five,**
19 **column two?**

20 A. I'm sorry, what is that again?

21 **Q. Page five, column two. Language looks like**
22 **this. That's on page five. That's fine.**

23 ATTORNEY TRYON: This is Dave Tryon. I
24 think both of you are starting to trail off at times and

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1 THE WITNESS: I'm aware of the concept.

2 BY ATTORNEY BROOKS:

3 **Q. Can you explain for the court what the concept**
4 **of --- what a gender fluid individual is or what that**
5 **person experiences?**

6 ATTORNEY BORELLI: Objection to form.

7 THE WITNESS: So my experience is that
8 every gender fluid person is different, and I have to
9 actually dig deep when I'm talking to someone who is
10 gender fluid as to what that means. It could mean a
11 wide variety of different experiences.

12 BY ATTORNEY BROOKS:

13 **Q. You're not able to describe at all what it mean**
14 **to be gender fluid?**

15 ATTORNEY BORELLI: Objection, form.

16 THE WITNESS: I can give you an example.
17 I can give you more than one example.

18 BY ATTORNEY BROOKS:

19 **Q. I'll take an example.**

20 A. Okay.

21 For a patient I'm bringing to mind, for that
22 individual they generally might be expressing their
23 gender identity variably on a particular day. Their
24 understanding of their identity is that it shifts a

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1 speak less loudly and it's getting a little bit harder
2 to hear you. If you can both remember to keep your
3 voices up, it would be helpful to me.

4 ATTORNEY BROOKS: We will do our best.
5 Wait until 6:30.

6 BY ATTORNEY BROOKS:

7 **Q. Page 3873, column two. And towards the bottom**
8 **is a discussion of the continuum and individuals who**
9 **experience both or neither and then a reference that we**
10 **looked at before about reports of individuals**
11 **experiencing a continuous and rapid involuntary**
12 **alternation between a male and female gender identity.**
13 **Do you see that? It's about eight lines from the**
14 **bottom.**

15 A. On the right?

16 **Q. Yes.**

17 A. Yeah.

18 **Q. And I'm going to focus you on the rapid**
19 **involuntary alternation between male and female**
20 **identity. And is it your view --- is it your opinion**
21 **that unless school or league policy allows such gender**
22 **fluid individuals to play in the league according to**
23 **their present gender identity, whatever that might be,**
24 **that it will do extreme harm to those individuals?**

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1 ATTORNEY BORELLI: Objection, form.

2 THE WITNESS: So I think that unless you
3 are working with that individual person to do what works
4 for them based on their gender identity, you are likely
5 to do harm.

6 BY ATTORNEY BROOKS:

7 **Q. And am I correct that it is your opinion that**
8 **avoiding harm to students who experience a transgender**
9 **identity, perhaps a gender fluid identity, is a higher**
10 **priority than ensuring fairness in competition for those**
11 **born female?**

12 ATTORNEY BORELLI: Objection to form.

13 THE WITNESS: So doing a harm to
14 individuals that are transgender can lead directly to
15 their death. So we're talking about a life and death
16 experience for these individuals. What you are
17 referring to with regard to sports participation in my
18 vision of all of the sports athletics is a rarity of
19 someone dying, and it is not because of the harm policy
20 --- of transgender person.

21 BY ATTORNEY BROOKS:

22 **Q. What's the answer to my question?**

23 COURT REPORTER: Excuse me.

24 ATTORNEY BORELLI: Objection.

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1 COURT REPORTER: I just want to interrupt
2 because the witness cut out during her answer.

3 BY ATTORNEY BROOKS:

4 **Q. Well, I'm going to re-ask the question. And**
5 **we'll both try to speak up and perhaps to some extent**
6 **the transcript will have to be, you know, cleaned up**
7 **from the recording. We'll do the best we can. Is it**
8 **your opinion that avoiding harm to transgender**
9 **individuals, potentially including gender fluid**
10 **individuals, is a value that is more important than**
11 **protecting the fairness and safety for girls and women**
12 **for those born female in sport?**

13 ATTORNEY BORELLI: Objection, form.

14 THE WITNESS: So when we're talking about
15 life and death, that is the ultimate outcome. And I
16 still say that if you're talking about a policy that
17 could cause the death of a human being, that, in my
18 judgment, does rank higher than fairness at that time.

19 BY ATTORNEY BROOKS:

20 **Q. And you talked earlier about your assertion that**
21 **you had patients who have experienced harm as a result**
22 **of not being permitted to play according to their gender**
23 **identity. Do you recall that testimony?**

24 ATTORNEY BORELLI: Objection, form.

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1 THE WITNESS: I do.

2 BY ATTORNEY BROOKS:

3 **Q. And do you have specific examples of such**
4 **patients who experienced increased suicidal ideation**
5 **specifically as a result of not being permitted to play**
6 **in athletics according to their gender identity?**

7 ATTORNEY BORELLI: Objection, form.

8 THE WITNESS: I do.

9 BY ATTORNEY BROOKS:

10 **Q. Tell us about that.**

11 ATTORNEY BORELLI: Objection, form.

12 THE WITNESS: Yeah. So one of my
13 patients, for example, had played football. This
14 patient was assigned female at birth, identifying as
15 male in middle school. Really wanted to play in high
16 school and was eventually not allowed to do so, and
17 their depression deepened. They had not had any
18 suicidal ideation before. They had been well affirmed.
19 They were living in their gender identity in every other
20 aspect of their life.

21 And they ended up having to go on
22 medication to make sure that --- to treat that
23 depression in addition to all of the support in the
24 family and teachers were giving with their gender

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1 identity.

2 BY ATTORNEY BROOKS:

3 **Q. And do you have any knowledge as to whether that**
4 **individual would have faced serious safety injury risks**
5 **had that individual, natal female, been permitted to**
6 **play football at high school level as your patient's**
7 **male peers matured into full male stature?**

8 ATTORNEY BORELLI: Objection to form.

9 THE WITNESS: This particular patient was
10 within the normal range for a male of that age as far as
11 height, weight and BMI, so there wasn't a great
12 disparity with regard to that. That can come up at
13 times with regards to sports participation in
14 consideration with injury. So this particular patient,
15 I would not have had any concern there. Lots of
16 assigned females at birth who are not transgender also
17 play football in high school.

18 BY ATTORNEY BROOKS:

19 **Q. Tab 25. Dr. Adkins, do you recall permitting**
20 **the reporting of and being part of a WNYC podcast back**
21 **in 2016?**

22 A. Yes.

23 **Q. Let me mark as Exhibit 14 a two-page kind of**
24 **introductory page off the WNYC website describing this**

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1 podcast. The document itself, the posting is dated
2 August 2, 2016. Give me one moment here.

3 ---
4 (Whereupon, Adkins Exhibit 14, 2016
5 Podcast Summary Webpage, was marked for
6 identification.)

7 ---
8 ATTORNEY BROOKS: And let me also mark as
9 Exhibit 15 the transcript of that podcast downloaded off
10 of the WNYC website.

11 ---
12 (Whereupon, Adkins Exhibit 15, 2016
13 Podcast Transcript, was marked for
14 identification.)

15 ---
16 BY ATTORNEY BROOKS:

17 Q. And that --- the title apparently of the podcast
18 is, quote, I'd Rather Have a Living Son than a Dead
19 Daughter. Do you see that?

20 A. I do.

21 Q. And you allowed a reporter from WNYC to come
22 into your office and record various conversations.

23 Am I correct?

24 ATTORNEY BORELLI: Objection, form.

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1 Q. I'm sorry. In this field of treatment of gender
2 --- of individuals suffering gender dysphoria?

3 ATTORNEY BORELLI: Objection, form.

4 THE WITNESS: I started caring for
5 patients who are transgender in --- I think around 2013.
6 BY ATTORNEY BROOKS:

7 Q. Okay.

8 So between two and three years before the time
9 this was recorded.

10 Okay.

11 Let me ask you to look at Exhibit 15, which is
12 to say the transcript. And first page, it indicates and
13 I'll just --- it deals with two clients with names, at
14 least for purposes of the podcast, of Drew Adams and
15 Mark. Do you recall that?

16 ATTORNEY BORELLI: Objection, form.

17 THE WITNESS: I would have to verify.
18 Probably accurate, but ---.

19 BY ATTORNEY BROOKS:

20 Q. Martin shows up on page 13. A couple inches
21 down we skip to the last patient at the end of a long
22 day and then it says recalling this patient Martin.

23 A. I see that.

24 Q. Let's go back and just look at issues relating

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1 THE WITNESS: With the permission of ---
2 the --- everyone involved.

3 BY ATTORNEY BROOKS:

4 Q. To participate and they waived the privacy with
5 regard to anything that wasn't included in the podcast.

6 Am I correct?

7 ATTORNEY BORELLI: Objection to form.

8 THE WITNESS: That would be standard.

9 BY ATTORNEY BROOKS:

10 Q. At least as far as yourself, do you recall doing
11 that?

12 ATTORNEY BORELLI: Objection to form.

13 THE WITNESS: I don't recall. I suspect
14 I would have.

15 BY ATTORNEY BROOKS:

16 Q. And did you yourself review the podcast before
17 it was released for any privacy or accuracy concerns?

18 ATTORNEY BORELLI: Objection, form.

19 THE WITNESS: I don't remember. That's
20 been so long ago.

21 BY ATTORNEY BROOKS:

22 Q. It has been a while. This was 2016. And you
23 had been practicing in this area about how long in 2016?

24 A. In North Carolina?

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1 to Drew Adams. Drew is, if I understand correctly,
2 natal female, identifying at the time of this recording
3 as ---?

4 A. Drew was assigned female at birth and identified
5 as male at this time.

6 Q. And so far as you understand, based on your
7 medical evaluation, Drew is somebody who was
8 chromosomally female.

9 Correct?

10 ATTORNEY BORELLI: Objection to form.

11 THE WITNESS: I don't get to verify their
12 chromosomes. We don't do that.

13 BY ATTORNEY BROOKS:

14 Q. At the time this was recorded, you did have an
15 understanding, did you not, that Drew had female
16 reproductive biology?

17 ATTORNEY BORELLI: Objection, form.

18 THE WITNESS: On my exam at that time
19 Drew had external genitalia that appeared female and
20 secondary sex characteristics typical of someone
21 assigned female at birth.

22 BY ATTORNEY BROOKS:

23 Q. Well, in fact, somebody biologically female.

24 Correct?

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1 ATTORNEY BORELLI: Objection.

2 THE WITNESS: Assigned female at birth.

3 BY ATTORNEY BROOKS:

4 **Q. Well, let me ask you this. You prescribed**
5 **hormones for Drew.**

6 **Am I correct?**

7 A. Yes.

8 **Q. And you didn't do that without a high level of**
9 **confidence in your mind as to the biology of Drew's**
10 **body.**

11 **Am I correct?**

12 ATTORNEY BORELLI: Objection to form.

13 BY ATTORNEY BROOKS:

14 **Q. You weren't just based on what somebody happened**
15 **to be assigned at birth. You believed that Drew was**
16 **biologically female, did you not?**

17 ATTORNEY BORELLI: Objection, form.

18 THE WITNESS: So at the beginning, prior
19 to treating patients, we do look at where their baseline
20 hormones are. So I did have that information as well as
21 an external exam. I didn't have chromosomes or an
22 ultrasound.

23 BY ATTORNEY BROOKS:

24 **Q. My question is at the time you prescribed**

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1 work like I do with every patient, which is recommended
2 by the Endocrine Society that you get baseline hormone
3 levels. I did a physical exam. Not every patient gets
4 to have an ultrasound, a karyotype or a full exon
5 analysis. It's not the way you can practice medicine.

6 BY ATTORNEY BROOKS:

7 **Q. Turn with me to page three of the transcript.**
8 **Two, two and a half inches down, MH, who I believe is**
9 **the reporter, not somebody working for you but the**
10 **reporter, says, quote, this is Drew's second time here,**
11 **closed quote. Do you see that, just two inches down?**

12 A. Yeah.

13 **Q. It's been quite a few years. Do you believe**
14 **that that was accurate that what the events that were**
15 **recorded here were on Drew's second visit to your**
16 **clinic?**

17 ATTORNEY BORELLI: Objection, form.

18 THE WITNESS: It has been so long. To
19 verify it is true I would have to look back at my clinic
20 notes as well as if I even still had it recorded when
21 they were in clinic or not.

22 BY ATTORNEY BROOKS:

23 **Q. And do you know, as you sit here today, whether**
24 **prior to this perhaps second meeting with Drew any**

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1 **hormones for Drew you believed that Drew was**
2 **biologically female firmly, did you not?**

3 ATTORNEY BORELLI: Objection, form.

4 THE WITNESS: I had no reason at that
5 time with the data in front of my to identify Drew as
6 anything other than assigned female at birth.

7 BY ATTORNEY BROOKS:

8 **Q. And you just didn't care what Drew's biology was**
9 **as you chose hormones to prescribe?**

10 ATTORNEY BORELLI: Objection, form.

11 THE WITNESS: I investigated what is
12 necessary to move ahead with that prescription and make
13 it safe for the patient.

14 BY ATTORNEY BROOKS:

15 **Q. What was necessary was to determine that**
16 **biologically Drew was female.**

17 **Am I correct?**

18 ATTORNEY BORELLI: Objection, form.

19 BY ATTORNEY BROOKS:

20 **Q. You are going to tell the court that you didn't**
21 **try to determine whether Drew was biologically male or**
22 **female?**

23 ATTORNEY BORELLI: Objection, form.

24 THE WITNESS: I obtained baseline blood

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1 **psychologist or psychiatrist associated with your new**
2 **clinic had personally evaluated Drew to confirm the**
3 **diagnosis of gender dysphoria?**

4 ATTORNEY BORELLI: Objection, form.

5 THE WITNESS: Before we start treatment
6 we have our mental health team do an assessment of the
7 patient with regard to finding out their --- any
8 psychological challenges that they may be having and
9 confirm if they have gender dysphoria and confirm the
10 criteria from the DSM --- God, my brain is just tired.
11 From the DSM criteria. And in addition to that, we have
12 a person who is a local mental health provider also
13 perform any evaluation and develop a relationship with
14 the patient prior to starting the treatment.

15 BY ATTORNEY BROOKS:

16 **Q. Well, let me break that out. Do you require**
17 **that a psychologist or psychiatrist associated with Duke**
18 **confirm a diagnosis of gender dysphoria before you**
19 **proceed with hormonal interventions?**

20 ATTORNEY BORELLI: Objection, form.

21 THE WITNESS: I have a team of mental
22 health providers who work with me and do that
23 assessment. That is part of their standard job. And
24 every patient is evaluated by that team. Sometimes it

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1 is a psychiatrist, psychologist. Sometimes it is a
2 different kind of mental health provider.

3 BY ATTORNEY BROOKS:

4 **Q. Well, if it is not a psychologist or**
5 **psychiatrist, on what type of mental health --- what**
6 **qualifications of mental health providers do you rely to**
7 **make such a diagnosis before prescribing hormonal**
8 **interventions?**

9 ATTORNEY BORELLI: Objection, form.

10 THE WITNESS: You know, there are
11 Licensed Clinical Social Workers that we work with that
12 are used by Duke in a number of capacities with regard
13 to mental healthcare.

14 BY ATTORNEY BROOKS:

15 **Q. Is it your testimony --- I want to be careful on**
16 **this. Is it your testimony that you are willing to rely**
17 **on a diagnosis by a social worker with no medical,**
18 **psychological degree before prescribing a hormonal**
19 **intervention?**

20 ATTORNEY BORELLI: Objection, form.

21 THE WITNESS: So the mental health
22 providers that I use have master's degree education in
23 care for patients in this area and have ongoing
24 continuing medical education with regard to their

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1 ability to assess the mental health of a patient in front
2 of them.

3 BY ATTORNEY BROOKS:

4 **Q. That would be a --- a Master's in social work.**
5 **Correct?**

6 A. Often it's a Master's in social work. Also have
7 people who have Master's in public health in addition I
8 should say.

9 **Q. And so if such any evaluations was done by a**
10 **mental health professional associated with Duke, that**
11 **would have been at Drew's first visit, not at the visit**
12 **that was the subject of this podcast recording?**

13 ATTORNEY BORELLI: Objection, form.

14 THE WITNESS: At that time it could have
15 been done physically at the first visit. Sometimes we
16 have had them come on a different day than their visit
17 with me. So it is possible it could have been a
18 different day. I just don't remember.

19 BY ATTORNEY BROOKS:

20 **Q. Okay.**

21 **Do you ever rely on the diagnosis of an**
22 **individual's mental health worker not associated with**
23 **Duke as an adequate basis to prescribe hormonal**
24 **interventions?**

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1 ATTORNEY BORELLI: Objection, form.

2 THE WITNESS: Our clinic policy is to
3 have someone outside of Duke as well as someone inside
4 of Duke.

5 BY ATTORNEY BROOKS:

6 **Q. So you may recall --- do you recall that Drew**
7 **and his mother had driven up from Florida for this**
8 **meetings?**

9 ATTORNEY BORELLI: Objection, form.

10 THE WITNESS: I do remember that.

11 BY ATTORNEY BROOKS:

12 **Q. And do you sometimes consider diagnosis given by**
13 **mental --- for purposes of proceeding with hormonal**
14 **interventions?**

15 ATTORNEY BORELLI: Objection, form.

16 THE WITNESS: If they are licensed to
17 practice in that area or certified in their state, that
18 is what we rely on.

19 BY ATTORNEY BROOKS:

20 **Q. At the top of page two --- and again, this is**
21 **the voice of the reporter, so I want to check it with**
22 **you. It says, the end of the first full paragraph, that**
23 **Drew and his mom are driving eight hours from**
24 **Jacksonville, Florida, to get here because North**

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1 **Carolina is also home to one of the only clinics in the**
2 **south that treats transgender kids. Do you see that?**

3 A. I do.

4 **Q. And in your understanding was that true in 2016,**
5 **that you here had one of the only clinics in the south**
6 **that treated transgender kids?**

7 ATTORNEY BORELLI: Objection, form.

8 THE WITNESS: We were one of a few.

9 BY ATTORNEY BROOKS:

10 **Q. And they had driven all the way to North**
11 **Carolina from Florida precisely because whatever mental**
12 **health providers they were seeing in Florida didn't have**
13 **expertise in this area.**

14 **Is that correct?**

15 ATTORNEY BORELLI: Objection, form.

16 THE WITNESS: They didn't drive here to
17 see a mental health provider. They drove here to see me
18 as an endocrinologist.

19 BY ATTORNEY BROOKS:

20 **Q. I apologize. Whatever professionals were**
21 **advising them in Florida didn't have expertise in this**
22 **area?**

23 ATTORNEY BORELLI: Objection, form.

24 THE WITNESS: With regard to hormonal

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1 management.

2 BY ATTORNEY BROOKS:

3 **Q. What steps, if any, did you take to give**
 4 **yourself comfort that any comorbidities that might be**
 5 **--- might confound the diagnosis of transgenderism had**
 6 **been appropriately addressed before you prescribed**
 7 **hormones for Drew?**

8 ATTORNEY BORELLI: Objection to form.

9 THE WITNESS: I mean, I would have to
 10 look back at my notes specifically to see exactly what
 11 we had in the record. Our policy again is to have
 12 someone who has had a relationship with the patient
 13 outside of Duke Clinic that states that they have well
 14 managed issues with regard to their mental health and
 15 are prepared and safe to move forward with gender
 16 affirming hormones.

17 BY ATTORNEY BROOKS:

18 **Q. As a matter of policy in your clinic do you**
 19 **insist on a diagnosis that will tell you whether or not**
 20 **this patient suffers from autism of any sort?**

21 ATTORNEY BORELLI: Objection, form.

22 THE WITNESS: We do require that they
 23 have a screening that is performed within our clinic for
 24 any potential signs or symptoms of autism.

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1 BY ATTORNEY BROOKS:

2 **Q. Do you have any professional opinion as to**
 3 **whether autism itself can cause individuals to feel**
 4 **alienated from or disassociated with their gender**
 5 **identity ---**

6 ATTORNEY BORELLI: Objection, form.

7 BY ATTORNEY BROOKS:

8 **Q. --- or I should say the gender identity**
 9 **associated with their natal sex?**

10 ATTORNEY BORELLI: Objection to form.

11 THE WITNESS: With the information that I
 12 have worked with on our autism team at Duke is that, you
 13 know, it can take a little longer for people with autism
 14 to truly understand their gender identity. So we do
 15 take care there. That's why we screen.

16 BY ATTORNEY BROOKS:

17 **Q. I would like to play a clip from this podcast**
 18 **that includes your voice, the reporter's voice, Drew's**
 19 **voice. I think it will come through loud and clear.**
 20 **I'm optimistic --- for those of you ---.**

21 ATTORNEY BORELLI: While you're settling
 22 this, will the words from the recording, do they appear
 23 in the transcription.

24 ATTORNEY BROOKS: They do. I was about

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1 BY ATTORNEY BROOKS:

2 **Q. And if you identify that a patient does have**
 3 **some signs or symptoms of autism what significance does**
 4 **that have as to how quickly or whether you are willing**
 5 **to proceed with hormonal interventions?**

6 ATTORNEY BORELLI: Objection to the form.

7 THE WITNESS: So again, every patient is
 8 different. Autism is a spectrum, as it's described
 9 autism spectrum disorder, and so you have to figure out
 10 each patient's understanding of their gender identity,
 11 what's going on in their life and if they're ready.

12 BY ATTORNEY BROOKS:

13 **Q. Do you have any professional opinion as to**
 14 **whether autism itself can cause a patient to feel**
 15 **uncomfortable with their identity?**

16 ATTORNEY BORELLI: Objection to form.

17 THE WITNESS: Their whole identity?

18 BY ATTORNEY BROOKS:

19 **Q. Yes.**

20 **A. I---**

21 ATTORNEY BORELLI: Objection ---.

22 THE WITNESS: Yeah, I don't know if I
 23 have seen any reports about their whole identity being
 24 called into question just because they have autism.

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1 to say that for everybody's benefit.

2 ATTORNEY BORELLI: Thank you, Counsel.

3 ATTORNEY BROOKS: Now, I'm thinking.
 4 That has to be live. All right. So that's unmuted.

5 VIDEOGRAPHER: You said one?

6 ATTORNEY BROOKS: What's that?

7 VIDEOGRAPHER: You said one?

8 ATTORNEY BROOKS: But I need to say on
 9 the record and tell people --- can the court reporter
 10 here me.

11 COURT REPORTER: Yes.

12 ATTORNEY BROOKS: The clip that I'm about
 13 to play appears on page four of the transcript that is
 14 marked Exhibit 15 and it makes up kind of the center
 15 two-thirds of the transcript. All the words that you
 16 will hear or perhaps won't hear very well appear on the
 17 transcript. We're going to listen to clip one here.

18 ---

19 (WHEREUPON, PODCAST AUDIO WAS PLAYED.)

20 ---

21 BY ATTORNEY BROOKS:

22 **Q. The narrator says that Drew's only question was,**
 23 **quote, when can I start testosterone, and you responded**
 24 **today, sound good, yeah, all right. Is that consistent**

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1 **with your recollection of what happened that day?**

2 ATTORNEY BORELLI: Objection, form.

3 THE WITNESS: Yes.

4 BY ATTORNEY BROOKS:

5 **Q. Was that your voice?**

6 A. That was my voice.

7 **Q. Okay.**

8 **And did you know before you came into the room**
 9 **that Drew's goal was to walk out with a testosterone**
 10 **injection or a prescription for a testosterone**
 11 **injection?**

12 ATTORNEY BORELLI: Objection to form.

13 THE WITNESS: You know, I don't remember.

14 I don't remember what I knew before in walked in the
 15 door. Sometimes I do. Sometimes I don't.

16 BY ATTORNEY BROOKS:

17 **Q. Now, I want to be fair. This is --- these are**
 18 **clips and they're carefully done, so I can't be sure**
 19 **whether there are things in between.**

20 A. Correct.

21 **Q. Do you have any recollection as to any**
 22 **discussion or any further evaluation that happened**
 23 **between, hey, how are you, and your voice, and answering**
 24 **the question when can I start, today?**

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1 of our visit. It's not necessarily part that I would
 2 do. And we also have forms that they fill out that does
 3 an assessment of depression prior to me walking in the
 4 room.

5 BY ATTORNEY BROOKS:

6 **Q. Did you ensure that an assessment had been done**
 7 **that evaluated the strengths and weaknesses of Drew's**
 8 **relationship with Drew's family?**

9 ATTORNEY BORELLI: Objection, form.

10 THE WITNESS: The mental health
 11 evaluation does include walking through parent
 12 relationships, school relationships, teacher
 13 relationships and finding out where those are.

14 BY ATTORNEY BROOKS:

15 **Q. Did you feel that you, yourself, needed to have**
 16 **any understanding, for instance, of Drew's relationship**
 17 **with Drew's father before you proceeded to prescribe**
 18 **cross sex hormones?**

19 ATTORNEY BORELLI: Objection, form.

20 THE WITNESS: I would want to know where
 21 their relationships are.

22 BY ATTORNEY BROOKS:

23 **Q. So Drew's mother attended. What steps did you**
 24 **take to find out what Drew's relationship with Drew's**

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1 ATTORNEY BORELLI: Objection, form.

2 THE WITNESS: So most typically, before I
 3 walk into a room I have reviewed the patient's medical
 4 record. I have reviewed their letter from their mental
 5 health provider. And I have reviewed any laboratory
 6 evaluation that I have received from them prior and
 7 generally review their records. So I would come into a
 8 visit with that sort of fresh in my mind.

9 BY ATTORNEY BROOKS:

10 **Q. So it is consistent with your recollection that**
 11 **on Drew's second meeting with you, you walked into the**
 12 **room having made up your mind to give Drew testosterone?**

13 ATTORNEY BORELLI: Objection, form.

14 THE WITNESS: Based on the words that are
 15 here, that would be --- I would have reviewed the
 16 information that I needed to know that that would be
 17 safe.

18 BY ATTORNEY BROOKS:

19 **Q. And in between walking in the room and telling**
 20 **Drew today, yay, all right, did you make any further**
 21 **inquiry about whether Drew in the last --- since he last**
 22 **saw you had been suffering from any sort of depression?**

23 ATTORNEY BORELLI: Objection to form.

24 THE WITNESS: So typically that is part

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1 **father was?**

2 ATTORNEY BORELLI: Objection, form.

3 THE WITNESS: I don't remember. I would
 4 have to look back.

5 BY ATTORNEY BROOKS:

6 **Q. And does your clinic before prescribing hormonal**
 7 **interventions make sure that an overall psychotherapy**
 8 **treatment plan has been prepared to diagnose and address**
 9 **any other psychological or social difficulties suffered**
 10 **by the patient?**

11 ATTORNEY BORELLI: Objection to form.

12 THE WITNESS: So you know, I follow the
 13 guidelines that say that we should have any of the
 14 mental health issues well managed and that's why we use
 15 --- have our patients have a mental health provider and
 16 that's why we have them tell us that in writing.

17 BY ATTORNEY BROOKS:

18 **Q. So I'm going to play a second clip that picks up**
 19 **exactly where we left off on the transcript, that is at**
 20 **the very bottom of page five and continuing halfway ---**
 21 **I'm sorry, the very bottom of page four and continuing**
 22 **halfway down page five. If you would.**

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1 (WHEREUPON, PODCAST AUDIO WAS PLAYED.)

2 ---

3 ATTORNEY BROOKS: That was background
4 noise. I thought it was coming through here. I
5 apologize. Just start it again. My mistake.

6 ---

7 (WHEREUPON, PODCAST AUDIO WAS PLAYED.)

8 ---

9 BY ATTORNEY BROOKS:

10 **Q. Dr. Adkins, do you believe that the basic**
11 **narrative here accurately describes what happened, that**
12 **you came in, you spoke with Drew, you went out, and**
13 **while you were out one of your aides read risk**
14 **disclosures for consent to Drew and Drew's mother?**

15 ATTORNEY BORELLI: Objection, form.

16 THE WITNESS: That is part of it.

17 BY ATTORNEY BROOKS:

18 **Q. And the narrator said at the beginning**
19 **explaining this process that there were still, as of**
20 **2016, a lot of unknowns about what these hormones will**
21 **do long term. Was that an accurate statement at the**
22 **time in your opinion?**

23 ATTORNEY BORELLI: Objection, form.

24 THE WITNESS: We've learned a lot more.

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1 **testosterone at a future date.**

2 **Correct?**

3 ATTORNEY BORELLI: Objection, form.

4 THE WITNESS: Correct.

5 BY ATTORNEY BROOKS:

6 **Q. And that is still part of your disclosure today;**
7 **is that correct?**

8 A. That's part of it. We actually have more
9 studies that show actually an equal fertility rate for
10 our transgender males who have been on testosterone and
11 come off and choose to get pregnant as their cisgender
12 peers, their assigned females at birth who've never been
13 through any testosterone treatment.

14 **Q. Because of the present science you still make**
15 **exactly the same caution in your warnings to patients**
16 **before prescribing testosterone.**

17 **Correct?**

18 ATTORNEY BORELLI: Objection to form.

19 THE WITNESS: I do.

20 BY ATTORNEY BROOKS:

21 **Q. And so the sequence is that you said with regard**
22 **to administering testosterone, which you cautioned or**
23 **clinic cautioned could be potentially sterilizing, you**
24 **as the doctor said to Drew, sound good, yeah, all right.**

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1 We have got however many more years, what, five more
2 years at least of information since then. You can't
3 know what every single thing that every drug is going to
4 do forever.

5 BY ATTORNEY BROOKS:

6 **Q. One of the things that you included at that time**
7 **in your cautions or disclosures was that taking these**
8 **cross sex hormones might prevent a patient who had ---**
9 **was a natal female from ever being able to get pregnant,**
10 **even if Drew stopped taking testosterone in the future.**

11 **Correct?**

12 ATTORNEY BORELLI: Objection, form. One
13 other just piece of clarity for the record, I want to
14 make sure that it is clear that the transcript and
15 recording is not a complete recording of the entire
16 visit.

17 ATTORNEY BROOKS: I have made that clear
18 I think.

19 ATTORNEY BORELLI: Thank you, Counsel.

20 BY ATTORNEY BROOKS:

21 **Q. My question is one of your disclosures in 2016**
22 **was that the administration of testosterone to a natal**
23 **female might mean that that individual would not ever be**
24 **able to get pregnant even should the patient stop taking**

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1 **And then you left the room while somebody else read**
2 **warnings and disclosures.**

3 **Is that right?**

4 ATTORNEY BORELLI: Objection, form.

5 THE WITNESS: That doesn't --- is that
6 what the sequence was in this report? It looks like
7 that I also make sure that the patients have adequate
8 time to answer questions. I usually give them this form
9 ahead of the visit so they can review it and in case
10 their reading is their better method versus verbal.
11 That's why we do it in two different ways as far as
12 their learning style. We make every effort to help make
13 sure that our patients understand.

14 ATTORNEY BORELLI: We have been going a
15 while. Can we take a break soon? I think we should.

16 ATTORNEY BROOKS: Fairly soon. We'll
17 finish this line of questioning and this clip.

18 BY ATTORNEY BROOKS:

19 **Q. You yourself didn't ever sit down and talk**
20 **through known or potential side effects with either the**
21 **child or the mother in this case, did you?**

22 ATTORNEY BORELLI: Objection, form.

23 THE WITNESS: I don't remember it
24 specifically every visit from 2016 and exactly what

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1 happened.

2 BY ATTORNEY BROOKS:

3 **Q. As a matter ---,**

4 ATTORNEY BORELLI: Counsel, I'm sorry, I
5 think I heard the witness say a moment ago that a break
6 would be good. Why don't we break here? Can we come
7 back in say ten minutes?

8 ATTORNEY BROOKS: We can say that or I
9 can finish this paragraph.

10 ATTORNEY BORELLI: Why don't we break
11 now. We've been going a while. Thank you.

12 VIDEOGRAPHER: Going off the record. The
13 current time reads 2:27 p.m. Eastern Standard Time.

14 OFF VIDEO

15 ---

16 (WHEREUPON, A PAUSE IN THE RECORD WAS HELD.)

17 ---

18 ON VIDEO

19 VIDEOGRAPHER: We're back on the record.
20 Current time reads 2:43 p.m. Eastern Standard Time.

21 BY ATTORNEY BROOKS:

22 **Q. Dr. Adkins, in dealing with Drew, you have a**
23 **social worker read the disclosures, the warnings. Did**
24 **you, yourself, ever present to Drew options for**

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1 BY ATTORNEY BROOKS:

2 **Q. Have you, yourself, ever participated as a**
3 **physician in a so-called phase one clinical trial?**

4 ATTORNEY BORELLI: Objection to form.

5 THE WITNESS: So phase one typically is
6 dose related. I have not done those. I have done phase
7 two, phase three and then after market.

8 BY ATTORNEY BROOKS:

9 **Q. Phase one is, among other things, required to**
10 **establish safety.**

11 **Am I correct?**

12 ATTORNEY BORELLI: Objection, form.

13 THE WITNESS: That is part of the
14 objective of a phase one study.

15 BY ATTORNEY BROOKS:

16 **Q. And indeed, it is a required part of the**
17 **objective.**

18 **Right?**

19 ATTORNEY BORELLI: Objection, form.

20 THE WITNESS: Yes.

21 BY ATTORNEY BROOKS:

22 **Q. And to your knowledge, has any study of safety**
23 **of administering testosterone for the purpose of**
24 **appearing more masculine in natal females ever been done**

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1 **fertility preservation?**

2 ATTORNEY BORELLI: Objection, form.

3 THE WITNESS: Yes, that is a conversation
4 I have with my patients.

5 BY ATTORNEY BROOKS:

6 **Q. You, yourself, have that conversation?**

7 A. I do.

8 **Q. Let's --- and did you explain --- I see that the**
9 **disclosure --- we heard the disclosure that it's ---**
10 **using testosterone to appear more masculine is off label**
11 **use. Is that part of your standard disclosures?**

12 ATTORNEY BORELLI: Objection, form.

13 BY ATTORNEY BROOKS:

14 **Q. Do you explain to your patients that the fact**
15 **that it is off label means that no studies that**
16 **establish safety of use of testosterone for that purpose**
17 **at the level as would be required for FDA approval have**
18 **been done?**

19 ATTORNEY BORELLI: Objection, form.

20 THE WITNESS: No, that wouldn't be an
21 accurate statement. Those studies can be done. They
22 just haven't been presented by the company manufacturing
23 the medication to the FDA to try and get that
24 certification from the FDA.

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1 **at a level of rigor that could satisfy FDA requirements?**

2 ATTORNEY BORELLI: Objection, form.

3 THE WITNESS: So I don't have the FDA
4 standards right in front of me. I have, you know, read
5 articles that report outcomes and side effects and
6 safety profiles. There are other testosterone --- there
7 are testosterone products on the market that are FDA
8 approved for using cisgender females.

9 BY ATTORNEY BROOKS:

10 **Q. Do you know whether any safety study has ever**
11 **been done for administration of testosterone to natal**
12 **females for the purpose of appearing more masculine at a**
13 **level of rigor that could satisfy FDA requirements?**

14 ATTORNEY BORELLI: Objection, form.

15 THE WITNESS: I can't answer the question
16 without, you know --- I would have to really look at the
17 indications, the FDA rules.

18 BY ATTORNEY BROOKS:

19 **Q. Okay.**

20 **Let's listen to a third and final clip. This**
21 **one begins with a sentence the last one ended with on**
22 **page five and runs just onto page six, I believe. End**
23 **of page five. Let's hear that.**
24

1 ---
2 (WHEREUPON, PODCAST AUDIO WAS PLAYED.)

3 ---
4 BY ATTORNEY BROOKS:

5 **Q. All right.**

6 **My impression, correct me or tell me if you**
7 **agree, that clip is just a single unbroken bit of**
8 **conversation, not pieced together from different things.**
9 **Is that consistent with what you heard and what you**
10 **recall?**

11 ATTORNEY BORELLI: Objection, form.

12 THE WITNESS: You know, I don't remember.

13 BY ATTORNEY BROOKS:

14 **Q. Okay.**

15 **You come back in the room with a prescription**
16 **in your hand, the warnings have been read while you were**
17 **outside. You ask, guess what I have in my hand. You**
18 **heard the clip and I see what it says there. Is the**
19 **voice that says happy drugs Drew's voice or your voice?**

20 ATTORNEY BORELLI: Objection, form.

21 THE WITNESS: Mine. My voice.

22 BY ATTORNEY BROOKS:

23 **Q. The voice that says happy drugs is your voice.**
24 **And the voice that says yay, yay, s also your voice? If**

1 **hormones as happy drugs?**

2 ATTORNEY BORELLI: Objection, form.

3 THE WITNESS: So if you will recall, we
4 use the medication to decrease dysphoria, which is a
5 discomfort, and to improve depression. So any
6 medication that would relieve those things could be
7 described as a happy drug. I'm okay with that.

8 BY ATTORNEY BROOKS:

9 **Q. And after Drew says happy drug you said yay,**
10 **yay. Are you comfortable that's consistent with your**
11 **role as a doctor in light of potential downsides and**
12 **side effects of this treatment and this child's life to**
13 **serve the role of a cheerleader saying yay, yay?**

14 ATTORNEY BORELLI: Objection. Counsel, I
15 just want to note for the record it's not clear from
16 that recording that both yays are in the same voice.
17 That's actually not what I heard.

18 ATTORNEY BROOKS: If you have an
19 objection you can raise it later.

20 ATTORNEY BORELLI: I need to make my
21 record now, Counsel.

22 ATTORNEY BROOKS: No, you need to raise
23 your objection now. You get to discuss it further in
24 front of the court.

1 **you want to hear it again you can.**

2 A. It's not labeled that way.

3 **Q. Well, yay, yay is labeled you?**

4 A. Yay, yay is labeled me? Okay.

5 **Q. Doctor A?**

6 A. It's really confusing because it's ---.

7 **Q. Let's do this. Let's listen to this one more**
8 **time.**

9 A. There is confusion.

10 **Q. I want you to listen --- don't trust the labels.**
11 **Listen to the voice on happy drugs. They may be ---.**

12 ---
13 (WHEREUPON, PODCAST AUDIO WAS PLAYED.)

14 ---
15 BY ATTORNEY BROOKS:

16 **Q. Whose voice says happy drugs?**

17 A. That sounded like Drew.

18 **Q. Okay.**

19 **So the labeling you believe is correct. I just**
20 **wanted to double check that.**

21 **Are you, as a physician, in light of all of the**
22 **disclosures that have just been made about potential**
23 **side effects, potential harmful effects, were you**
24 **comfortable with the child referring to cross sex**

1 BY ATTORNEY BROOKS:

2 **Q. I will re-ask my question. Do you consider it**
3 **consistent with your role as a physician, in light of**
4 **the potential downsides and side effects from cross sex**
5 **hormones for this child, for you to play the role of**
6 **cheerleader saying yay?**

7 ATTORNEY BORELLI: Objection, form.

8 THE WITNESS: So in my job as a physician
9 I often am helping motivate my patients improve their
10 overall health. And in that way I often sound like I am
11 a cheerleader and I am trying to help them believe in
12 themselves and understand and feel good moving forward
13 with medication treatments to have the best likelihood
14 of success. So I may say yay.

15 VIDEOGRAPHER: Excuse me. You got cut
16 out there in the middle of that --- in the middle of
17 your answer.

18 THE WITNESS: Okay.

19 Do you want me to start over?

20 ATTORNEY BROOKS: Who was that?

21 ATTORNEY WILKINSON: That was the court
22 reporter. I can make a recording if everyone is happy
23 with my phone just on the table so we could refer to
24 that later if that's useful if we're concerned about the

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1 audio cutting out.

2 ATTORNEY BROOKS: There is no harm in a
3 backup recording. Voices will be identifiable. If you
4 want to set it there by that speaker.

5 ATTORNEY WILKINSON: If you're
6 comfortable.

7 ATTORNEY BORELLI: I just want to check
8 --.

9 COURT REPORTER: Who is talking right
10 now. I'm sorry, who is --- who is talking about their
11 phone. I don't understand. Like, I don't know who's
12 speaking.

13 ATTORNEY BROOKS: Just now my colleague
14 Lawrence Wilkinson is proposing to set his iPhone on
15 record by the speaker here so there will be a backup
16 onsite recording in case anything is dropped over the
17 internet. And that will be made available both to those
18 who are listening and to the court reporter service.
19 Address some of the concerns. So let's fire that up and
20 it will be there.

21 BY ATTORNEY BROOKS:

22 **Q. I will continue with my questioning. Did it**
23 **cause you any concern that in referring --- by referring**
24 **to a testosterone injection as happy drugs that that was**

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1 **she doesn't like talking about what Drew's life was like**
2 **before he started transitioning. But when I asked her**
3 **how she knew living as a boy was the right choice for**
4 **Drew, she was blunt. She said I'd rather have a living**
5 **son than a dead daughter. Do you see that?**

6 A. I do.

7 **Q. Did you ever tell Drew's mother that that was**
8 **the choice that she faced, between a living son and a**
9 **dead daughter?**

10 ATTORNEY BORELLI: Objection to form.

11 THE WITNESS: I would not have used that
12 phrase. I would have discussed the risk of suicidality.
13 BY ATTORNEY BROOKS:

14 **Q. Did you ever hear Drew's mother say she**
15 **understood that was the choice she faced, between a**
16 **living son and a dead daughter?**

17 ATTORNEY BORELLI: Objection, form.

18 THE WITNESS: You know, I have heard it
19 since then because of the podcast, so I can't remember
20 if I heard it before then or not. I don't recall
21 hearing it before then.

22 BY ATTORNEY BROOKS:

23 **Q. When you saw the title to the podcast did you**
24 **call WNYC and express any concern that that title could**

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1 **an indication that young Drew was not taking seriously**
2 **the 20 minutes' worth of cautions and warnings that had**
3 **just been read?**

4 ATTORNEY BORELLI: Objection, form.

5 THE WITNESS: So given that the
6 medication is used to decrease dysphoria and improve
7 depressive symptoms, in that way it does make someone
8 happier. And I have no issue with a patient who is
9 using a general reference as happy drugs in that that is
10 part of what will happen with the medication. I didn't
11 have any concerns with regard to the fact that Drew may
12 not have gotten everything he needed to understand what
13 he was going into going forward with this medication.

14 BY ATTORNEY BROOKS:

15 **Q. Let's back up to page four of the transcript.**
16 **And we're not going to listen to any ore clips.**
17 **Everybody will be happy to know perhaps.**

18 ATTORNEY BORELLI: It's unstable.

19 THE WITNESS: There we go.

20 BY ATTORNEY BROOKS:

21 **Q. Okay.**

22 **And towards the top of page four, the second**
23 **paragraph, the narrator --- and this is not you speaking**
24 **and it is not Drew's mother speaking. The narrator says**

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1 **be misleading?**

2 ATTORNEY BORELLI: Objection, form.

3 THE WITNESS: I did not.

4 BY ATTORNEY BROOKS:

5 **Q. Have you ever consulted research on the rate of**
6 **suicide among preadolescents for any purpose?**

7 ATTORNEY BORELLI: Objection to form.

8 BY ATTORNEY BROOKS:

9 **Q. In any category?**

10 A. Repeat the question, please.

11 **Q. Have you ever consulted research or data about**
12 **the rate of suicide among preadolescents, period?**

13 ATTORNEY BORELLI: Objection, form.

14 THE WITNESS: Preadolescents, have I
15 consulted research on suicidality on preadolescents, so
16 before puberty. Not in a while.

17 BY ATTORNEY BROOKS:

18 **Q. You are aware, are you not, that incidences of**
19 **actual suicide are extremely rare in individuals of all**
20 **categories before puberty?**

21 ATTORNEY BORELLI: Objection, form.

22 THE WITNESS: That sounds consistent with
23 the leading causes that I recall for death before
24 puberty.

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1 BY ATTORNEY BROOKS:

2 **Q. And you, yourself, are not aware of a single**
3 **case of suicide by a preadolescent gender dysphoria**
4 **patient that has come to your clinic?**

5 ATTORNEY BORELLI: Objection, form.

6 THE WITNESS: No.

7 BY ATTORNEY BROOKS:

8 **Q. And have you consulted any research on the rate**
9 **of actual suicide by children suffering from gender**
10 **dysphoria under the age of 15?**

11 ATTORNEY BORELLI: Objection, form.

12 THE WITNESS: Have I? Yes.

13 BY ATTORNEY BROOKS:

14 **Q. And what did that --- what source do you have in**
15 **mind when you say that?**

16 ATTORNEY BORELLI: Objection, form.

17 THE WITNESS: Again, I have trouble with
18 remembering and there is a wide variety of reports, some
19 as --- from 25 to 30 percent, some as high as 40
20 percent. And those are suicide attempts, as I recall,
21 which means that the folks that died wouldn't have even
22 been identified.

23 BY ATTORNEY BROOKS:

24 **Q. Well, you are aware that there's a very wide**

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1 THE WITNESS: Excuse me. No.

2 BY ATTORNEY BROOKS:

3 **Q. Have you followed up so that you have current**
4 **information about Drew's mental, physical and social**
5 **health as of today, which would be about age 21?**

6 ATTORNEY BORELLI: Objection, form.

7 THE WITNESS: Drew's no longer my
8 patient, has transitioned to adult care. That's not
9 what I do, so I don't have access to that.

10 BY ATTORNEY BROOKS:

11 **Q. What procedures do you have in place, if any, in**
12 **your clinic to follow up long term with those whom you**
13 **have prescribed puberty blockers or cross sex hormones**
14 **for?**

15 ATTORNEY BORELLI: Objection, form.

16 THE WITNESS: So you know, here at Duke
17 we have a multidisciplinary team. As --- I don't know
18 if I mentioned them before. It includes a wide variety
19 of individuals. And that group discusses every month
20 our patients, any concerns or questions. In addition,
21 that group has put together a registry that starts when
22 they come to my clinic and we follow their health, their
23 mental health through the time that they are in our
24 clinic and then when --- oops. Sorry. And then when

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1 **statistical gap between suicide attempts and suicides.**
2 **Correct?**

3 ATTORNEY BORELLI: Objection to form.

4 THE WITNESS: There is some variation
5 between suicide attempts and what was the word, suicide
6 ideation, yeah.

7 BY ATTORNEY BROOKS:

8 **Q. No. What I said is there is a very wide gap**
9 **between suicide attempts and actual completed suicide?**

10 ATTORNEY BORELLI: Objection, form.

11 THE WITNESS: There is a gap between.
12 Not every one who attempts. Otherwise, there wouldn't
13 be a difference in the name.

14 BY ATTORNEY BROOKS:

15 **Q. In fact, you know as a matter of professional**
16 **expertise that it is a very wide gap, do you not?**

17 ATTORNEY BORELLI: Objection.

18 THE WITNESS: I would have to look at the
19 literature, at what the numbers look like and describing
20 it why is an opinion.

21 BY ATTORNEY BROOKS:

22 **Q. Has any patient of the 500 under your care ever**
23 **committed suicide at an age younger than 14?**

24 ATTORNEY BORELLI: Objection, form.

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1 they are adults transitioning to our adult care team.
2 And in that way I'm able to keep up with those patients
3 who remain at Duke for adult care.

4 BY ATTORNEY BROOKS:

5 **Q. So you have been practicing this field I think**
6 **you said since about 2013. And the patients that you**
7 **saw let's say in 2013, 2014, 2015, I think you said most**
8 **of your patients presented older than age --- I don't**
9 **recall exactly. Your average presentation is older than**
10 **13?**

11 ATTORNEY BORELLI: Object to the form.

12 THE WITNESS: Yes.

13 ATTORNEY BORELLI: You got to pause so I
14 can get in an objection.

15 THE WITNESS: Oh, yeah. Yeah.

16 BY ATTORNEY BROOKS:

17 **Q. So --- yeah. So those patients on average are**
18 **now in their upper teens or perhaps 20?**

19 ATTORNEY BORELLI: Objection, form.

20 THE WITNESS: Let's see. I have patients
21 who are older than that. I'm not sure of an average. I
22 have not calculated an average.

23 BY ATTORNEY BROOKS:

24 **Q. Do you have any procedures in place to attempt**

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1 **to monitor the mental health of your patients five years**
 2 **after you first prescribe puberty blockers or cross sex**
 3 **hormones?**

4 ATTORNEY BORELLI: Objection, form.

5 THE WITNESS: The patients that remain
 6 within our registry do have regular mental health
 7 follow-up. We have a team on the adult side as well in
 8 both of the two clinics that we work with.

9 BY ATTORNEY BROOKS:

10 **Q. What percentage of your patients that you**
 11 **yourself have authorized cross sex hormones do you have**
 12 **access to data about their mental health five years**
 13 **after initiation of hormone treatment?**

14 ATTORNEY BORELLI: Objection, form.

15 THE WITNESS: Some are still present in
 16 the clinic. I would have access to those. You know,
 17 I'm not supposed to access records specifically if
 18 they're no longer in my care. The provider can reach
 19 out to me with concerns and have a very close
 20 relationship with the adult providers and they do ask me
 21 questions about some of those. So in that way I would
 22 have access as well as when we calculate on a population
 23 base within our registry any outcomes there.

24 BY ATTORNEY BROOKS:

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1 A. A registry is a list of patients who are
 2 enrolled in a study, if it's done as a research
 3 protocol. And within that registry, you collect
 4 information that you choose to record that's important
 5 and then you follow that over time in a systematic way.

6 ATTORNEY BROOKS: Let me grab tab 29 ---
 7 let me mark as Exhibit 16 a document previously
 8 designated as tab 29, which is article entitled --- I
 9 should say a newspaper article entitled The Mental
 10 Health Establishment is Failing Trans Kids by Laura
 11 Edwards Leeper and Erica ---.

12 ---

13 (Whereupon, Adkins Exhibit 16, 2021
 14 Washington Post Article, was marked for
 15 identification.)

16 ---

17 BY ATTORNEY BROOKS:

18 **Q. And Dr. Adkins, am I correct that this in the**
 19 **Washington Post came out in November of 2021 stirred up**
 20 **quite a bit of discussion within your profession?**

21 ATTORNEY BORELLI: Objection, form.

22 THE WITNESS: I understand that there was
 23 an article by Laura Edwards Leeper that there was a lot
 24 of conversation around. I don't know if it was this

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1 **Q. As a matter of research, has --- have you or**
 2 **anybody associated with your clinic attempted a**
 3 **follow-up survey or systematic series of interviews of**
 4 **all patients who were prescribed hormones within, for**
 5 **instance, some particular time period?**

6 ATTORNEY BORELLI: Objection, form.

7 THE WITNESS: So we currently are
 8 enrolling patients in that study. It's not complete.

9 BY ATTORNEY BROOKS:

10 **Q. As we sit here today, you don't have any**
 11 **systematic reasonably thorough information on the mental**
 12 **health condition of let's say patients for whom you**
 13 **first prescribed hormonal interventions five years ago.**

14 **Is that correct?**

15 ATTORNEY BORELLI: Objection. Objection
 16 to form.

17 THE WITNESS: I would consider, you know,
 18 a registry with research based systematic method.

19 BY ATTORNEY BROOKS:

20 **Q. A registry with research based ---?**

21 A. That is research based is a systematic program
 22 to do that and find out follow-up.

23 **Q. What do you mean by registry that it is research**
 24 **based?**

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1 one. It is possible.

2 BY ATTORNEY BROOKS:

3 **Q. Did you read this?**

4 A. I haven't read this article.

5 **Q. There was a lot of conversation around a recent**
 6 **article by Dr. Edwards Leeper and Dr. Anderson but you**
 7 **didn't bother to read it?**

8 ATTORNEY BORELLI: Objection to form.

9 THE WITNESS: I have had discussions with
 10 my colleagues around the substance. I haven't had the
 11 time to read it.

12 BY ATTORNEY BROOKS:

13 **Q. Have you had professional interactions in the**
 14 **past with Dr. Edwards Leeper?**

15 ATTORNEY BORELLI: Objection, form.

16 THE WITNESS: It's possible that we
 17 taught at a same conference once, but I don't recall
 18 ever having a conversation.

19 BY ATTORNEY BROOKS:

20 **Q. And have you had professional interactions with**
 21 **Dr. Anderson?**

22 ATTORNEY BORELLI: Objection, form.

23 THE WITNESS: I have not.

24 BY ATTORNEY BROOKS:

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1 **Q. Are you generally aware of Dr. Edwards Leeper's**
2 **reputation in the field?**

3 ATTORNEY BORELLI: Objection, form.

4 THE WITNESS: Yes.

5 BY ATTORNEY BROOKS:

6 **Q. How would you describe that reputation at least**
7 **prior to publication of this article?**

8 ATTORNEY BORELLI: Objection, form.

9 THE WITNESS: In general, I would not
10 necessarily say that it has changed. People have
11 respect for Dr. Edwards Leeper and her publications in
12 general. I don't know about specific ---.

13 BY ATTORNEY BROOKS:

14 **Q. People generally have respect for her**
15 **publications?**

16 A. Generally. I don't know about every one.

17 **Q. Sure. Were you invited to participate as a**
18 **member of the committee to revise the WPATH so-called**
19 **standards of care relating to treatment of transgender**
20 **individuals?**

21 ATTORNEY BORELLI: Objection, form.

22 THE WITNESS: I was.

23 BY ATTORNEY BROOKS:

24 **Q. Are you doing that?**

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1 BY ATTORNEY BROOKS:

2 **Q. So as a representation there I know that Dr.**
3 **Anderson is transgender, is a natal male who's been**
4 **living with a female gender identity for many years.**
5 **That you don't know about one way or the other?**

6 ATTORNEY BORELLI: Objection, form.

7 THE WITNESS: I do not know that.

8 BY ATTORNEY BROOKS:

9 **Q. Okay.**

10 **Let me take you back to Exhibit --- sorry, what**
11 **was the first one we marked? Was it 17 and 18 or 16 and**
12 **17?**

13 ATTORNEY WILKINSON: Sixteen (16) and 17,
14 16 and 17.

15 BY ATTORNEY BROOKS:

16 **Q. Let me take you back to Exhibit 16. And the**
17 **first paragraph contains a narrative. I have no idea**
18 **whether it is a specific narrative or kind of case study**
19 **narrative about this girl Patricia who told her parents**
20 **she was transgender at age 13. It goes on to say that a**
21 **year earlier she had been sexually assaulted by an older**
22 **girl. Do you know what percentage of natal females who**
23 **come to your clinic after the beginning of puberty have**
24 **experienced sexual assault before they present to you?**

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1 A. No.

2 **Q. And did you participate in the task force for**
3 **the American Psychological Association, which developed**
4 **guidelines for practice guidelines for work with**
5 **transgender individuals?**

6 ATTORNEY BORELLI: Objection, form.

7 THE WITNESS: I have not participated in
8 that, no.

9 BY ATTORNEY BROOKS:

10 **Q. Okay.**

11 **And let me mark the next one, which is an**
12 **article that consists of an interview with Dr. Anderson.**
13 **This I will mark as Exhibit 17?**

14 ---

15 (Whereupon, Adkins Exhibit 17, Anderson
16 Interview, was marked for
17 identification.)

18 ---

19 BY ATTORNEY BROOKS:

20 **Q. And I believe I asked if you knew her or are you**
21 **familiar with the reputation of Dr. Anderson, Dr. Laura**
22 **Anderson?**

23 ATTORNEY BORELLI: Objection, form.

24 THE WITNESS: Actually, no.

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1 ATTORNEY BORELLI: Objection, form.

2 THE WITNESS: I can't give you a
3 percentage. It is something that we discuss with every
4 patient in their intake assessment.

5 BY ATTORNEY BROOKS:

6 **Q. Do you believe that natal females who have**
7 **suffered sexual assault are disproportionately**
8 **represented among the population who present**
9 **experiencing gender dysphoria or gender incongruence?**

10 ATTORNEY BORELLI: Objection, form.

11 THE WITNESS: So those assigned female at
12 birth, I can't say that based on my review of my
13 information that they are overrepresented. And I would
14 have to have a comparison group. You know, one in four
15 cisgender women have been attacked sexually at some
16 point in their life. It's hard to get around that.

17 BY ATTORNEY BROOKS:

18 **Q. Let me ask you to turn to page three of Exhibit**
19 **16.**

20 A. I'm sorry ---.

21 **Q. Page three, Exhibit 16.**

22 A. Okay. Thank you. I just had a drink of water.

23 **Q. Of course.**

24 A. They're not labeled on my paper.

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Q. The pages are not. You are right. I wrote them on mine. You would have to count them to be sure, but the third page.

A. I think I got it.

Q. These authors, Doctors Edwards Leeper and Anderson, state at the end of the paragraph at the top of page three that, quote, we may be harming some of the young people we strive to support, people who may not be prepared for the gender transitions they are being rushed into, closed quote.

Do you see that?

A. Where again?

Q. It's the very last sentence of the partial paragraph at the top?

A. Right. Got it. Thank you. Yeah, I see it.

Q. Do you share that concern expressed by Dr. Edwards Leeper and Dr. Anderson that is that some young people are being rushed into transitions and may be harmed rather than supported as a result?

ATTORNEY BORELLI: Objection, form.

THE WITNESS: So if you're following the recommendations there's at least six months of time. In my general experience it is years before they even present to my clinic. So I don't --- I would not say

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think it does, it begins ---.

A. Okay. All right.

Q. Within that you'll find the sentence that begins in recent study.

A. Got it.

Q. And it says in a recent study 100 detransitioners, for instance, 38 percent reported that they believed their original dysphoria have been caused by something specific such as trauma, abuse or mental health condition, closed quote.

Do you see that?

A. I do.

Q. Are you, yourself, aware of a recently published survey of 100 detransitioners by Dr. Litman of Brown University?

ATTORNEY BORELLI: Objection, form.

THE WITNESS: I have not seen that report.

BY ATTORNEY BROOKS:

Q. Are you aware of that?

ATTORNEY BORELLI: Objection to form.

THE WITNESS: No, actually. Again, I don't remember names, so when you ask me about an article by Doctor Brown, I know 100 Doctor Brown. And I

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that that's a rush.

BY ATTORNEY BROOKS:

Q. Well, and my question wasn't about your clinic now. My question was do you share the concern of these authors that looking around the practice more generally that some young people are being harmed rather than supported because they are being rushed into transitions they may not be fully prepared for?

ATTORNEY BORELLI: Objection, form.

THE WITNESS: So within research and within my conversations with my colleagues who are doing similar work, we practice similarly. I don't agree that they are rushing these kids.

BY ATTORNEY BROOKS:

Q. Let me ask you to turn over to the next page. And there in the second paragraph from the bottom is a sentence that begins in a recent study. Do you see that sentence?

A. I must not be on the right page.

Q. It is the penultimate page.

A. In the ---.

Q. In the penultimate paragraph.

A. Providers, that one?

Q. In a recent study of 100 detransitioners. I

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have seen some articles about de-transition. So without that in front of me to really say, yes, I've seen that article --- it's possible. I do my best to keep up on the literature.

BY ATTORNEY BROOKS:

Q. All right. I'm used to wetting my fingers --- let me take you back to the previous page, the third paragraph --- and the paragraph begins comprehensive assessment. Do you see that paragraph?

A. Yes.

Q. And at the end of that the last sentence reads the messages that teens get from Tik-Tok and other sources may not be very productive for understanding this constellation of issues, referring to gender dysphoria-related issues. Do you see that sentence?

A. I do.

Q. Do you share the concern of these authors, young people are being unduly influenced on issues of gender identity by social media messages?

ATTORNEY BORELLI: Objection to form.

THE WITNESS: As a pediatrician, I have my reservations about social media and their effects on teens. Always reminding teens in my care that they need to check their sources and that TikTok isn't, for

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example, peer reviewed and that they should rely on, you know, the knowledge of their provider. And they're free to ask those questions and learn that information from a reliable person within our clinic.

BY ATTORNEY BROOKS:

Q. Do you share the concern that teens are particularly subject to peer pressure through social media?

ATTORNEY BORELLI: Objection, form.

THE WITNESS: So you know, peer pressure is a recognized phenomenon with adolescents that can affect teens.

BY ATTORNEY BROOKS:

Q. Is your clinic seeing an increasing number of older teens or young adults who are considering de-transitioning?

ATTORNEY BORELLI: Objection, form.

THE WITNESS: I'm sorry. Repeat the very first part of that.

BY ATTORNEY BROOKS:

Q. Is your clinic seeing an increasing number of older teens or young adults who are considering de-transitioning?

ATTORNEY BORELLI: Objection, form.

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over the last decade?

ATTORNEY BORELLI: Objection, form.

THE WITNESS: I have seen at least one study would suggest that. It has not been my clinical experience.

BY ATTORNEY BROOKS:

Q. That has not been the experience in your clinic?

A. No.

Q. Let me take you to paragraph 18 of your expert report. And there you express the opinion that a person's gender identity cannot be voluntarily changed and is not undermined or altered by the existence of other sexually related characteristics that do not align with it. Do you see that?

A. I do.

Q. And let me, in fact, have the Declaration --- the preliminary injunction declaration, which is tab one.

ATTORNEY BROOKS: I'm going to mark that as Exhibit --- or did I already mark it?

ATTORNEY WILKINSON: Not marked.

ATTORNEY BROOKS: I did not. So what exhibit was that?

ATTORNEY WILKINSON: Eighteen (18).

ATTORNEY BROOKS: We will mark the

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THE WITNESS: Increasing over time ---

BY ATTORNEY BROOKS:

Q. Yes.

A. --- or in the past? I wouldn't say the rate has increased in my clinic.

Q. Within the last --- well, let's say within 2021 or whatever of 2022 there has been, how many patients have raised with you or to your knowledge anyone in your clinic the possibility of de-transitioning?

ATTORNEY BORELLI: Objection, form.

THE WITNESS: In that timeframe, I would have to look back exactly. Only three.

BY ATTORNEY BROOKS:

Q. Are you aware of multiple reports that the proportion of young people presenting with gender dysphoria or gender incongruence among teens has shifted heavily towards girls over the last decade?

ATTORNEY BORELLI: Objection, form.

THE WITNESS: You will have to clarify the question because girls ---.

BY ATTORNEY BROOKS:

Q. Are you aware that the proportion of teens presenting at clinics with gender dysphoria or gender incongruence who are natal female has increased greatly

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Declaration of Deanna Adkins dated 5/21/2021 as Exhibit 18.

(Whereupon, Adkins Exhibit 18, Declaration of Deanna Adkins, M.D., was marked for identification.)

BY ATTORNEY BROOKS:

Q. And in this document also I want to call your attention to paragraph 18. And in the declaration filed in May of last year in paragraph 18 you wrote a person's gender identity is fixed. Do you see that language?

A. I do.

Q. And you eliminated the word --- the assertion that a person's gender identity is fixed from your expert declaration submitted more recently. Do you see that?

A. I do.

Q. Why did you make that omission?

A. I think that it's too easy to misinterpret.

Q. Explain.

A. So when I'm talking about someone's gender identity it is what it is. And nothing that I do or they do or their family does can change that gender

1 identity. Their understanding of that gender identity
2 may change over time. And that was my --- what I was
3 trying to say was not changeable. And when you use the
4 other word it seems that it could be misinterpreted to
5 me.

6 **Q. So you don't mean to say that gender identity
7 never changes in individuals, do you?**

8 ATTORNEY BORELLI: Objection, form.

9 THE WITNESS: That's not what I said. I
10 said gender identity is what it is. And your
11 understanding of it may change over time.

12 BY ATTORNEY BROOKS:

13 **Q. We looked in the Endocrine Society Guidelines,
14 at the language that refers to individuals who
15 experience a continuous and rapid involuntary
16 alternation between male and female. Do you remember
17 that language?**

18 A. I do.

19 **Q. How does that relate --- how is that consistent
20 with your opinion that gender identity is fixed and
21 means what it is?**

22 ATTORNEY BORELLI: Objection, form.

23 THE WITNESS: So gender identity is that
24 it moves somewhat along the spectrum. That doesn't

1 ATTORNEY BORELLI: Objection, form.

2 THE WITNESS: Everyone's gender identity
3 is how they explain it. They may understand it
4 differently over time. Just because I say I don't like
5 strawberries when I'm eight and I do like strawberries
6 now doesn't mean I never liked strawberries to begin
7 with. It means I finally had a good strawberry.

8 ATTORNEY BROOKS: Let me have tab 12.
9 Let me mark as Exhibit 20.

10 ATTORNEY WILKINSON: Nineteen (19).

11 ATTORNEY BROOKS: Let me mark as Exhibit
12 19, an article from Herbert Health Publishing by Sadra
13 Katz-Wise, entitled Gender Fluidity: What it Means and
14 Why Support Matters.

15 ---

16 (Whereupon, Adkins Exhibit 19, 2020
17 Herbert Health Publishing Article, was
18 marked for identification.)

19 ---

20 BY ATTORNEY BROOKS:

21 **Q. First I'll ask if you have any professional
22 contact with Doctor Sadra Katz-Wise?**

23 A. I don't see the name spelled out. It doesn't
24 sound familiar.

1 change. That is their identity.

2 BY ATTORNEY BROOKS:

3 **Q. That doesn't change, but you have a professional
4 opinion that individuals who experience a gender fluid
5 identity at some period in their life inevitably remain
6 gender fluid for the rest of their lives?**

7 ATTORNEY BORELLI: Objection, form.

8 THE WITNESS: Understanding their gender
9 identity may change, what the identity is, is under
10 exploration throughout their lives. From the time
11 they're young they're discovering their gender identity.

12 BY ATTORNEY BROOKS:

13 **Q. Well, you consider part of your professional
14 practice to believe what people tell you about their
15 gender identity, don't you?**

16 ATTORNEY BORELLI: Objection, form.

17 THE WITNESS: The gender identity is
18 something that can only be explained by a person because
19 it is their knowledge of themselves.

20 BY ATTORNEY BROOKS:

21 **Q. And if a person at one point in time feels that
22 their gender identity is fluid and another point in time
23 feels that it is not, on what basis do you say that
24 their true gender identity hasn't changed?**

1 **Q. It's just under the graphic here ahead of the
2 text. You'll see the name.**

3 A. Oh, in red. That's why I didn't see it.

4 **Q. Yeah, exactly. Right.**

5 A. Got it. Katz-Wise. No.

6 **Q. I see, when I look her up, that Dr. Katz-Wise is
7 associated with Boston Children's Hospital and Harvard
8 Medical School. That doesn't refresh your recollection
9 as to any previous professional interactions with her?**

10 A. Again, I'm terrible with names.

11 **Q. You're aware that Boston Children's Hospital has
12 a high reputation in the area of transgender therapy?**

13 ATTORNEY BORELLI: Objection, form.

14 THE WITNESS: Well, they have been
15 involved in transgender therapy for a long time.

16 BY ATTORNEY BROOKS:

17 **Q. And they have a high reputation?**

18 ATTORNEY BORELLI: Objection, form.

19 THE WITNESS: In general people feel like
20 they do a good job.

21 BY ATTORNEY BROOKS:

22 **Q. Let me ask you to turn to the second page. And
23 down at the bottom is a heading that says what's the
24 difference between gender fluid and transgender. Do you**

1 see that?

2 A. I do.

3 **Q. And the first sentence there says while some**
4 **people develop a gender identity early in childhood,**
5 **others may identify with one gender at one time and then**
6 **another gender later on.**

7 **Do you see that?**

8 A. I do.

9 **Q. And do you agree or disagree with that statement**
10 **by Dr. Sabar Katz-Wise?**

11 ATTORNEY BORELLI: Objection, form.

12 THE WITNESS: So she is not saying that
13 their gender identity changes. You know, at different
14 times in your life your understanding may be that this
15 is the group that I belong with. And as you learn more
16 about your experience and your gender, that can change.

17 BY ATTORNEY BROOKS:

18 **Q. Dr. Adkins, how do you as a clinician --- if you**
19 **have a patient who at one time identifies one way and**
20 **another time identifies another way, how do you as a**
21 **clinician determine which of those is that patient's**
22 **true gender identity, given that you've said that gender**
23 **identity is something that only the patient can express**
24 **to you?**

1 ATTORNEY BORELLI: Objection, form.

2 THE WITNESS: So you know, we're not sort
3 of doing anything to influence that in our patients
4 until they come to us later and have had lots of time to
5 reflect on that. They by the guidelines need to have at
6 least six months of identification with and
7 understanding that gender identity is a particular way.
8 And typically gender identity is starting to consolidate
9 in adolescence and have a good understanding of your
10 identity at that time.

11 BY ATTORNEY BROOKS:

12 **Q. What do you understand to be meant by the term**
13 **gender incongruence?**

14 A. It is similar to the gender identity not
15 matching your sex assigned at birth.

16 **Q. Let me ask you to find Exhibit 4, 2007 Endocrine**
17 **Society guidelines. And turn if you would to page 3879,**
18 **first column under the heading evidence, it reads in**
19 **most children diagnosed with GD/gender incongruence it**
20 **did not persist into adolescence.**

21 **Do you see that?**

22 A. I did.

23 **Q. So the point here is that these children were,**
24 **in fact, diagnosed with gender dysphoria or gender**

1 **incongruence which you just said means that their gender**
2 **identity doesn't match their gender assigned at birth.**
3 **And then the Endocrine Society goes on to say that that**
4 **identity, that sense of incongruence does not persist**
5 **into adolescence.**

6 **Do you see that?**

7 ATTORNEY BORELLI: Objection, form.

8 THE WITNESS: I do.

9 BY ATTORNEY BROOKS:

10 **Q. And how do you reconcile that with your**
11 **previously expressed opinion that gender identity is,**
12 **quote, fixed?**

13 ATTORNEY BORELLI: Objection, form.

14 THE WITNESS: So this is a random piece
15 out of this whole publication. They are talking --- as
16 far as I can tell right here, and again I would be
17 speculating, that it is about a particular piece of
18 medical evidence. And medical evidence in this area has
19 varied. It's based on the different groups and the way
20 they were recruited, et cetera.

21 BY ATTORNEY BROOKS:

22 **Q. Well, you're --- never mind on a particular**
23 **piece. You're well aware, are you not, that there are**
24 **multiple studies that indicate the substantial majority**

1 **of children who are diagnosed with gender dysphoria**
2 **desist from experiencing gender dysphoria by some stage**
3 **in adolescence?**

4 ATTORNEY BORELLI: Objection, form.

5 BY ATTORNEY BROOKS:

6 **Q. You discuss that in your report, do you not?**

7 A. I'm sorry. Can you repeat the question?

8 **Q. You are aware that there are multiple studies**
9 **that have found that children diagnosed with gender**
10 **dysphoria, the large majority of those individuals**
11 **desist from experiencing gender dysphoria by some time**
12 **in adolescence?**

13 ATTORNEY BORELLI: Objection, form.

14 THE WITNESS: And I don't typically see
15 those patients in my clinic.

16 BY ATTORNEY BROOKS:

17 **Q. But you're aware of the science that is**
18 **described though.**

19 **Right?**

20 ATTORNEY BORELLI: Objection, form.

21 THE WITNESS: There are patients ---
22 there are studies that were done in the past that were
23 not well done and had a bias with the recruitment that
24 overlapped with other issues. I'm aware of those

1 studies. And children are not being treated in my
2 clinic for gender dysphoria. Adolescents are who we
3 treat in our clinic.

4 BY ATTORNEY BROOKS:

5 **Q. Well, the study that the Endocrine Society chose**
6 **to cite for this proposition just a little lower in that**
7 **paragraph it says as follows. And this is 2017**
8 **Endocrine Society Guidelines. They say a large**
9 **majority, about 85 percent of prepubertal children with**
10 **a childhood diagnosis did not remain gender**
11 **dysphoric/gender incongruent into adolescence.**

12 **Do you see that language?**

13 A. I see that language.

14 **Q. And this Endocrine Society considered that**
15 **science worth citing rather than dismissing it as poorly**
16 **done, as you just attempted.**

17 **Correct?**

18 ATTORNEY BORELLI: Objection, form.

19 THE WITNESS: In your goals in creating
20 guidelines you want to be presenting the information
21 that's available. This study is available.

22 BY ATTORNEY BROOKS:

23 **Q. And the study in question is one by some of the**
24 **most highly respected researchers in the field.**

1 medical literature done well, though I have not read
2 every study. I'm not going to comment on everything
3 that they have done. A lot of the things I'm aware of
4 are done well.

5 BY ATTORNEY BROOKS:

6 **Q. I didn't ask you to comment on a single one of**
7 **their articles. I asked you isn't their reputation**
8 **among the highest in your field?**

9 ATTORNEY BORELLI: Objection, form.

10 THE WITNESS: If --- for gender-affirming
11 care, yes.

12 BY ATTORNEY BROOKS:

13 **Q. Thank you. How does their finding in large**
14 **majority of children diagnosed with gender dysphoria**
15 **desist from experiencing gender dysphoria by some stage**
16 **in adolescence square with your opinion that gender**
17 **identity is, quote, fixed?**

18 ATTORNEY BORELLI: Objection, form.

19 THE WITNESS: I'm sorry. Where are you
20 reading from and what was that again?

21 BY ATTORNEY BROOKS:

22 **Q. How does their finding that large majority of**
23 **children diagnosed with gender dysphoria before puberty**
24 **desist from experiencing gender dysphoria by some stage**

1 **Am I correct?**

2 ATTORNEY BORELLI: Objection.

3 BY ATTORNEY BROOKS:

4 **Q. I see you looking at the footnote?**

5 A. Right.

6 **Q. Those are among the most highly respected**
7 **researchers in the field.**

8 **Correct?**

9 A. They are some of the --- they're some of the
10 original researchers.

11 **Q. And to this very day they are among the most**
12 **highly respected in the field.**

13 **Am I right?**

14 ATTORNEY BORELLI: Objection, form.

15 THE WITNESS: In general, they are doing
16 good research and publications. I can't say everything
17 they do is beautiful.

18 BY ATTORNEY BROOKS:

19 **Q. Dr. Adkins, do you refuse to acknowledge that**
20 **Dr. Steemsma, DeVries and Cohen-Kettenis are among the**
21 **most highly respected researchers in your field?**

22 ATTORNEY BORELLI: Objection, form.

23 THE WITNESS: Of their work that I have
24 read and seen in general it is based on standards of

1 **in adolescence fit with your expressed opinion that**
2 **gender identity is fixed?**

3 ATTORNEY BORELLI: Objection, form.

4 THE WITNESS: So they are talking about
5 prepubertal children. Prepubertal children haven't gone
6 through their real under --- development of
7 understanding of their gender identity or their
8 consolidation of gender identity at that time. It's
9 kind of a false endpoint to put it that way because
10 we're not really again treating these young children and
11 we're not changing anything about them. These patients
12 wouldn't even come to my clinic.

13 BY ATTORNEY BROOKS:

14 **Q. You don't see prepubertal children at your**
15 **clinic?**

16 ATTORNEY BORELLI: Objection, form.

17 THE WITNESS: Very rarely.

18 BY ATTORNEY BROOKS:

19 **Q. And?**

20 A. Gender clinic?

21 **Q. Patients you treat in any capacity?**

22 ATTORNEY BORELLI: Objection to form.

23 THE WITNESS: I see all kinds of patients
24 from birth until --- I'm credentialed to 30.

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1 BY ATTORNEY BROOKS:

2 **Q. Do you in your professional work deal with**
3 **prepubertal children who are experiencing gender**
4 **dysphoria?**

5 ATTORNEY BORELLI: Objection, form.

6 THE WITNESS: Some.

7 BY ATTORNEY BROOKS:

8 **Q. Okay.**

9 **And do you want to revise the statement in your**
10 **report to say instead that after puberty gender identity**
11 **is fixed?**

12 ATTORNEY BORELLI: Objection, form.

13 THE WITNESS: Will you point that out to
14 me?

15 BY ATTORNEY BROOKS:

16 **Q. I'm sorry, point what out to you?**

17 A. That particular statement in my report.

18 **Q. I misspoke. You asserted in your declaration**
19 **that gender identity was fixed and my question is on**
20 **consideration would you prefer to say that gender**
21 **identity is fixed after puberty has occurred?**

22 ATTORNEY BORELLI: Objection, form.

23 THE WITNESS: So I didn't put that in a
24 way that --- again, we eliminated the word fixed because

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1 **ago, you swore under oath that it was your professional**
2 **opinion that gender identity was fixed. I'm entitled to**
3 **ask you about that. The fact that you wanted to change**
4 **a later document is interesting. It doesn't deprive me**
5 **of the right to ask you questions about that document.**

6 **My question for you now is do you want to revise**
7 **that statement to express the opinion that gender**
8 **identity is fixed after puberty?**

9 ATTORNEY BORELLI: Objection, form. I
10 apologize, Counsel. Can we --- I'm sorry, just lost
11 track. Have you introduced the PI declaration?

12 ATTORNEY BROOKS: I have.

13 ATTORNEY BORELLI: What exhibit number is
14 it?

15 ATTORNEY BROOKS: It is 18. Paragraph
16 18.

17 ATTORNEY BORELLI: Paragraph 18. Thank
18 you. Objection to form.

19 THE WITNESS: So I don't think that my
20 description of people's understanding of gender identity
21 and the way that we understand its development has
22 changed. I can't do anything to change their identity.
23 You can't do it. Their parents can't do it. And in
24 that way I still agree with the fact that in the way

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1 of the easy ability to misconstrue that. People undergo
2 a period of time in life where they understand their
3 gender better than other times. And puberty is part of
4 --- part of the mix.

5 BY ATTORNEY BROOKS:

6 **Q. So --- and this is the opportunity --- you're**
7 **here, so we're not going to misunderstand your words.**
8 **You signed and swore to an affidavit last year in which**
9 **you said gender identity is fixed. I'm giving you an**
10 **opportunity if you want to clarify or qualify that. And**
11 **my question to you is, is it now your testimony that**
12 **gender identity is fixed once puberty has occurred?**

13 ATTORNEY BORELLI: Objection, form.

14 THE WITNESS: Again, I think we have
15 another document here that doesn't use the word fixed.
16 Would you like me to go back and read that part? I can
17 read through it and find it for you.

18 BY ATTORNEY BROOKS:

19 **Q. No. I would like to work with your sworn**
20 **document from May of last year in which you said it was**
21 **fixed.**

22 A. When we update documents we try to clarify
23 anything that might be confusing.

24 **Q. Dr. Adkins, in May of 2021, which is not so long**

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1 that that was meant to be stated, that it can't be
2 changed. Fixed is a similar word. I use that word.

3 BY ATTORNEY BROOKS:

4 **Q. So and I didn't ask you about our ability to**
5 **change somebody else. Let me ask you a different**
6 **question. At which developmental stage in your**
7 **professional opinion does gender identity become fixed?**

8 ATTORNEY BORELLI: Objection, form.

9 THE WITNESS: Again, I believe I said
10 already that gender identity is what it is from the time
11 you are young. Your understanding of that develops over
12 time based on your path through life. That --- in that
13 way you can't change it.

14 BY ATTORNEY BROOKS:

15 **Q. Does that mean that if, according to Steemza and**
16 **Cohen-Kettenis, 85 percent of prepubertal children who**
17 **are diagnosed with gender dysphoria ultimately desist**
18 **from experiencing dysphoria, that their original**
19 **diagnoses were wrong?**

20 ATTORNEY BORELLI: Objection to form.

21 THE WITNESS: So there are a lot of
22 individuals who have looked at that information and felt
23 that the original group of individuals didn't have a
24 transgender identity. In a young group that's hard to

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1 assess at times. And so I would say in that way, you
2 know, we --- it's just not the same. And you can repeat
3 the question for me, please.

4 ATTORNEY BORELLI: We have been going an
5 hour. I'd like to take a break.

6 ATTORNEY BROOKS: Let me repeat the
7 question since I was just invited to do so.

8 BY ATTORNEY BROOKS:

9 **Q. I believe you testified that it is your view**
10 **that one's gender identity never changes from infancy to**
11 **adulthood although one's understanding of it may change**
12 **over time. My question for you now is does that mean**
13 **that in every case in which a child is diagnosed as**
14 **gender dysphoric and they subsequently desist from**
15 **gender dysphoria that the original diagnosis was wrong?**

16 ATTORNEY BORELLI: Objection, form.

17 THE WITNESS: So you know, at the time
18 that their understanding of their identity was different
19 from their sex assigned at birth when they were a child,
20 if that was the case, and it is not clear in that study
21 that that was necessarily the case, that the individuals
22 felt dysphoria about that, that is what happened to
23 them. Their understanding of their identity, if it
24 changed over time, it may relieve some of that gender

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1 dysphoria. I guess that's the best way I can state it.

2 ATTORNEY BROOKS: Let's take that break.

3 THE WITNESS: Thank you.

4 VIDEOGRAPHER: Going off the record. The
5 current time reads 3:43 p.m. Eastern Standard Time.

6 OFF VIDEO

7 ---

8 (WHEREUPON, A PAUSE IN THE RECORD WAS HELD.)

9 ---

10 ON VIDEO

11 VIDEOGRAPHER:

12 We're back on the record. The current
13 time is 3:59 p.m. Eastern Standard Time.

14 ATTORNEY BROOKS: I'm just --- sorry.

15 I'm just moving that so --- make sure it's still
16 recording and I didn't muck it up. I just wanted to not
17 hit it with papers.

18 ATTORNEY WILKINSON: Yes, it's still
19 recording.

20 BY ATTORNEY BROOKS:

21 **Q. Let's --- Dr. Adkins, if I can ask you to find**
22 **Exhibit 4 again, which is the 2017 guidelines. We are**
23 **again on page 3879 where we just were. And there after**
24 **the discussion that we looked at about desistance of**

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1 **childhood gender dysphoria, the next sentence reads**
2 **right after where we stopped if children had completed**
3 **socially transition, the may have great difficulty in**
4 **returning to the original gender role upon entering**
5 **puberty. And it continues social transition is**
6 **associated with the persistence of GD/gender**
7 **incongruence as a child progresses into adolescence.**

8 **Do you see that?**

9 A. Uh-huh (yes).

10 **Q. At the very end of the paragraph it reads social**
11 **transition in addition to GD/gender incongruence has**
12 **been found to contribute to the likelihood of**
13 **persistence.**

14 **Do you see that?**

15 A. Uh-huh (yes).

16 **Q. Now, what the Endocrine Society Committee,**
17 **considering all the available research, says is that**
18 **social transition has been found to contribute to the**
19 **likelihood of persistence. Is that how you read their**
20 **language here?**

21 ATTORNEY BORELLI: Objection, form.

22 THE WITNESS: That's how I read it.

23 BY ATTORNEY BROOKS:

24 **Q. And social transition has to do with how the**

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1 **people around the child treat him or her, what pronouns**
2 **they use, what names they use, what clothing they**
3 **provide, correct, is that consistent with your**
4 **understanding of social transition?**

5 ATTORNEY BORELLI: Objection, form.

6 BY ATTORNEY BROOKS:

7 **Q. It has to do with how society, how the people**
8 **around you treat you.**

9 **Correct?**

10 ATTORNEY BORELLI: Objection, form.

11 THE WITNESS: Yes.

12 BY ATTORNEY BROOKS:

13 **Q. And therefore, what this is saying is how**
14 **parents and those around the child treat that child can**
15 **affect whether that child ends up identifying as**
16 **transgender or identifying with a gender identity**
17 **congruent with his or her biology.**

18 **Correct?**

19 ATTORNEY BORELLI: Objection, form.

20 THE WITNESS: One more time.

21 BY ATTORNEY BROOKS:

22 **Q. What this is saying is that how parents --- when**
23 **it says that social transition has been found to**
24 **contribute to the likelihood of persistence what that**

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1 tells us is how parents and others around the child
2 treat that child can affect whether the child ends up
3 identifying as transgender or cisgender?

4 ATTORNEY BORELLI: Objection, form.

5 THE WITNESS: That is the way that reads.
6 I would say that, you know, I don't recommend
7 necessarily --- I recommend we follow the child and
8 watch their gender developments.

9 BY ATTORNEY BROOKS:

10 **Q. This Committee says that by assisting a child to**
11 **socially transition the available science suggests that**
12 **adults are contributing to the likelihood of persistence**
13 **rather than desistance. That's what it says.**

14 **Right?**

15 ATTORNEY BORELLI: Objection, form.

16 THE WITNESS: I'm sorry. I'm going to
17 make you say it one more time, please. I apologize.
18 I'm just getting tired.

19 BY ATTORNEY BROOKS:

20 **Q. I know the feeling. This says that by assisting**
21 **a child to socially transition the available science**
22 **suggests that adults are, quote, contributing to the**
23 **likelihood of persistence rather than desistance.**

24 ATTORNEY BORELLI: Objection, form.

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1 their gender identity can develop over time.

2 BY ATTORNEY BROOKS:

3 **Q. Do you agree or disagree with this statement in**
4 **the Endocrine Society Guidelines that social transition**
5 **has been found to contribute to the likelihood of**
6 **persistence?**

7 ATTORNEY BORELLI: Objection, form.

8 THE WITNESS: You know, they --- I
9 answered that question.

10 BY ATTORNEY BROOKS:

11 **Q. I'm sorry. I perhaps didn't correctly**
12 **understand. So if you would answer it again, that would**
13 **be helpful.**

14 A. So kids who --- now I've forgotten the question.

15 **Q. This one is a simple one. Do you agree or**
16 **disagree with the statement from this committee, the**
17 **Endocrine Society, that social transition has been found**
18 **to contribute to the likelihood of persistence?**

19 ATTORNEY BORELLI: Objection, form.

20 THE WITNESS: You know, this --- it's
21 hard for me to agree with that. As a pediatrician I
22 know that people --- prepubertal children, young
23 children, explore their gender identity in a lot of
24 different ways over time, and so I don't know that I can

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1 THE WITNESS: Gosh. So I'm not sure what
2 you say sounds right to me. That is what it says on the
3 paper.

4 BY ATTORNEY BROOKS:

5 **Q. And I will give you a chance to tell us whether**
6 **you agree or disagree with it, because my understanding**
7 **is that you, in contrast, believe that external**
8 **influences can't affect gender identity.**

9 **Correct?**

10 ATTORNEY BORELLI: Objection to form.

11 BY ATTORNEY BROOKS:

12 **Q. Cannot?**

13 A. So you know, all of your life influences your
14 identity development. You can't change what it is. You
15 can --- it can change your experience. I don't think
16 that these children were likely to have had a different
17 outcome.

18 **Q. So your view is that gender identity can't**
19 **change and therefore any child whose gender identity**
20 **appears to change must have been mistaken at some state**
21 **of their understanding.**

22 **Correct?**

23 ATTORNEY BORELLI: Objection, form.

24 THE WITNESS: So their understanding of

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1 agree necessarily that the way that it's written ---
2 that I necessarily agree with the specific terms.

3 BY ATTORNEY BROOKS:

4 **Q. I don't mean to suggest to you by word or tone**
5 **that this document was handed down on Mount Sinai. I**
6 **understand that there's room for scientists to disagree.**
7 **I am just trying to get clear on your opinion. I'm**
8 **pretty sure this document was not handed down on Mount**
9 **Sinai.**

10 **Let me find a copy of your rebuttal report, which**
11 **I believe was marked as Exhibit 3. Exhibit 3, the**
12 **rebuttal report. Let me ask you to turn to page 11 of**
13 **your rebuttal report. We can hand you another copy if**
14 **need be. We should have one more.**

15 A. I think this is it.

16 **Q. No, we're looking for your rebuttal report.**
17 **It's going to be a typewritten kind of something or**
18 **other.**

19 A. Like this, right?

20 **Q. Exhibit 3.**

21 A. I'm sorry. No that's not --- sugar.

22 **Q. I'm just going to hand you another one.**

23 A. Okay. Thank you.

24 **Q. No hard feelings.**

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1 A. I --- I know it's here because I -- there's so
2 many papers. You warned me there would be so many
3 papers.

4 **Q. I did. I tried to warn you.**

5 **Let me ask you to turn to paragraph 11 of your**
6 **rebuttal report.**

7 A. Oh, okay. Yeah.

8 **Q. Page five.**

9 A. I'm sorry, the number --- one of the numbers
10 skipped and it was just a labeling of a reference, so
11 again 11.

12 **Q. Yes. The second sentence there you wrote ---**
13 **and this is of course a recent submission, adolescents**
14 **with persistent gender dysphoria after reaching Tanner**
15 **stage two almost always persist in their gender identity**
16 **in the long term. Do you see that language?**

17 A. I do.

18 **Q. So --- and the basis that you cite for that**
19 **rather specific factual proposition is an article or**
20 **actually a chapter by Turban, DeVries and Zucker.**

21 **Correct? I'm just looking at footnote three.**

22 A. Yes.

23 **Q. So Tanner stage two, as I understand --- or we**
24 **can look at the Endocrine Society note, but this is ---**

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1 between 9 and 14. Anything earlier or later again might
2 trigger some questions that something is going on.

3 **Q. So age eight is generally girls turn eight in**
4 **second or third grade? Third grade roughly?**

5 ATTORNEY BORELLI: Objection, form.

6 THE WITNESS: That would be --- you know,
7 it varies because early starters, late starters. But
8 ---.

9 BY ATTORNEY BROOKS:

10 **Q. And so for nine, for boys would be fourth grade?**

11 ATTORNEY BORELLI: Objection to form.

12 THE WITNESS: That would be the typical.

13 BY ATTORNEY BROOKS:

14 **Q. So we're talking grade school kids here, not**
15 **even the end of grade school?**

16 ATTORNEY BORELLI: Objection, form.

17 BY ATTORNEY BROOKS:

18 **Q. And if the type of changes that mark the**
19 **beginning of Tanner stage two are generally at least to**
20 **the layman's eye not visible on a clothed child.**

21 **Correct?**

22 ATTORNEY BORELLI: Objection, form.

23 BY ATTORNEY BROOKS:

24 **Q. That mark the beginning Tanner stage two?**

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1 **Tanner stage two is when children first begin to exhibit**
2 **physically recognizable changes in puberty.**

3 **Right?**

4 ATTORNEY BORELLI: Objection, form.

5 THE WITNESS: Yes.

6 BY ATTORNEY BROOKS:

7 **Q. So Tanner stage one, there's nothing observable.**
8 **And the beginning of Tanner stage two is the first**
9 **observable changes?**

10 A. Yes.

11 ATTORNEY BORELLI: Objection, form.

12 BY ATTORNEY BROOKS:

13 **Q. And I think you testified, but if you could just**
14 **remind us kind of the timespan that that tends to begin**
15 **for boys and girls.**

16 ATTORNEY BORELLI: Objection, form.

17 THE WITNESS: Tanner two. Tanner two,
18 for those assigned female at birth can range in the
19 normal, typical development between the ages of 8 and
20 12. It does fall outside of that at times and is
21 considered early and could be a marker of a problem as
22 well as delayed could be a marker of a problem.

23 **Q. For boys?**

24 A. For those assigned male at birth, so usually

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1 ATTORNEY BORELLI: Objection, form.

2 THE WITNESS: I would say that some
3 assigned females at birth, especially if they're lean,
4 you can see their breast development.

5 BY ATTORNEY BROOKS:

6 **Q. Just a breast bud. But in general, when we**
7 **speak of adolescence, we don't --- in common parlance we**
8 **do not include third and fourth graders, do we?**

9 ATTORNEY BORELLI: Objection, form.

10 THE WITNESS: Well, the definition of
11 adolescence is the time during puberty, so they should
12 be included.

13 BY ATTORNEY BROOKS:

14 **Q. In your experience as to how people use the**
15 **term, third and fourth graders included in adolescence?**

16 ATTORNEY BORELLI: Objection, form.

17 THE WITNESS: It varies with regard to
18 the context. Within my medical practice that's the way
19 we use the term.

20 BY ATTORNEY BROOKS:

21 **Q. At any rate, we're talking about grade school**
22 **ages, not junior high or middle school ages. What is**
23 **your basis for saying that those children who persist up**
24 **to the beginning of Tanner stage two almost always**

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1 **persist transgender identity?**

2 ATTORNEY BORELLI: Objection. Objection,
3 form.

4 THE WITNESS: I don't know which
5 reference it is, but I can state that in my practice
6 that's what I have seen.

7 BY ATTORNEY BROOKS:

8 **Q. Let me show you the only reference you did cite**
9 **for that, which I will mark as Exhibit 20, the article**
10 **by Turban, DeVries and Zucker cited in footnote 20 of**
11 **your rebuttal report. I'm sorry. Don't know why I said**
12 **20. I'm going to hand the witness that article now.**

13 A. Thank you.

14 ---

15 (Whereupon, Adkins Exhibit 20, Turban,
16 DeVries and Zucker Article, was marked
17 for identification.)

18 ---

19 COURT REPORTER: Excuse me, but you're
20 mumbling and I can't understand everything that you're
21 saying.

22 ATTORNEY BROOKS: At the moment I'm just
23 shuffling papers and handing out documents. And I will
24 speak up now and ask a question. Sorry about that.

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1 **just last week?**

2 A. I have reviewed this document. I don't remember
3 when though.

4 **Q. Okay.**

5 **And in here --- let's look at page 638. And**
6 **there at the top of --- near the top of the first column**
7 **on 638 is a discussion of follow-up studies of**
8 **persisters and desisters. Do you see that discussion?**

9 A. Yes.

10 **Q. And it says --- four lines, five lines down it**
11 **begins, quote, Restoray and Skeemsma have provided the**
12 **most recent study of 10 follow up studies in which the**
13 **percentage of participants classified as persisters**
14 **ranged from two percent to 39 percent collapsed across**
15 **natal boys and girls, closed quote. Do you see that?**

16 A. Yeah.

17 **Q. And further down under the heading persistence**
18 **of gender dysphoria from adolescence to adulthood is a**
19 **very short paragraph that reads in its entirety in**
20 **contrast low rates of persistence from childhood into**
21 **adolescence, it appears that the vast majority of**
22 **transgender adolescents persist in their transgender**
23 **identity, closed quote.**

24 **Do you see is that?**

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1 COURT REPORTER: Well, we are on the
2 record and I need to be able to hear every single word
3 that you guys are saying.

4 ATTORNEY BROOKS: We'll do the best we
5 can.

6 COURT REPORTER: It's hard for me over
7 here.

8 BY ATTORNEY BROOKS:

9 **Q. Is this, in fact, the article that you**
10 **referenced in your rebuttal report, Dr. Adkins, or the**
11 **chapter I should say?**

12 A. Yeah. I mean, I'd have to take a minute to
13 review it.

14 VIDEOGRAPHER: Counsel, which tab number
15 is this?

16 THE WITNESS: I'm sorry, you broke up.

17 VIDEOGRAPHER: Which tab number is this
18 document?

19 ATTORNEY BROOKS: Tab 39. I apologize.

20 VIDEOGRAPHER: Thank you.

21 THE WITNESS: It is labeled as that.

22 BY ATTORNEY BROOKS:

23 **Q. Well, do you recall recently reading this**
24 **article since it was cited in this document submitted**

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1 A. Yes.

2 **Q. And was that the language that you had in mind**
3 **when you cited this reference in footnote three of your**
4 **rebuttal report?**

5 A. I would have to look all the way through the
6 article. It's consistent.

7 **Q. And the language that I directed you to at the**
8 **top summarizes studies that show --- showing of**
9 **persistence of gender dysphoria among childhood**
10 **dysphorics of only two percent to 39 percent.**

11 **Right?**

12 ATTORNEY BORELLI: Objection, form.

13 THE WITNESS: Those are two different
14 populations.

15 BY ATTORNEY BROOKS:

16 **Q. They are. And I'm asking you now again about**
17 **what it says at the top?**

18 A. Please repeat your question.

19 **Q. The discussion at the top summarizes studies**
20 **showing persistent childhood dysphoria of only between**
21 **two percent and 39 percent, depending on the study?**

22 ATTORNEY BORELLI: Objection to form.

23 THE WITNESS: I see that.

24 BY ATTORNEY BROOKS:

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Q. And that is that the large majority consisted at some stage before adulthood.

Correct?

ATTORNEY BORELLI: Objection, form.

THE WITNESS: More than half per this.

BY ATTORNEY BROOKS:

Q. And nothing here tells us about exactly what stage of adolescence before adulthood they desisted, does it?

ATTORNEY BORELLI: Objection, form.

THE WITNESS: In this literature adolescence is puberty. It would have to be at least Tanner two.

BY ATTORNEY BROOKS:

Q. At least. Now, my question was nothing in the discussion up towards the top of the column about these persistence and desistance studies tells us at what stage of puberty the desisters desisted, does it?

ATTORNEY BORELLI: Objection, form.

THE WITNESS: I would have to look at the whole study. Just in that line that detail is not listed.

BY ATTORNEY BROOKS:

Q. And similarly, looking at the discussion under

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the heading persistence of gender dysphoria from adolescence to adulthood not being in that sentence tells us what stage of adolescence, whether it is Tanner stage two or three or four is being referred to when it says the majority of adolescents persist?

ATTORNEY BORELLI: Objection, form.

THE WITNESS: It's not written right there, no.

BY ATTORNEY BROOKS:

Q. Please identify for me all studies you are aware of that show that those who desist from childhood gender dysphoria do so by no later than beginning of Tanner stage two.

ATTORNEY BORELLI: Objection, form.

THE WITNESS: I am not going to be able to remember those off the top of my head.

BY ATTORNEY BROOKS:

Q. Can you remember a single one?

ATTORNEY BORELLI: Objection, form.

THE WITNESS: I would have to have you repeat the question, but I doubt it.

BY ATTORNEY BROOKS:

Q. I will repeat it. Identify all studies you're aware of that show that those who desist from childhood

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gender dysphoria do so no later than the time they first reach Tanner stage two?

ATTORNEY BORELLI: Objection, form.

THE WITNESS: I don't think that I recall a study that's been modeled that way.

BY ATTORNEY BROOKS:

Q. Can you tell me --- identify for me any study that has examined whether what is called in the literature watchful waiting combined with psychotherapy results in worse outcomes for children as compared to administration of puberty blockers and social outcomes?

ATTORNEY BORELLI: Objection, form.

THE WITNESS: So the experience is that some patients have dysphoria that is significant enough once they are in puberty to be dangerous to their life. I worry about those patients. We allow them a pause with puberty blockers to continue to figure out their gender identity. I got lost in my answer, I apologize.

BY ATTORNEY BROOKS:

Q. Well, Dr. Adkins, I didn't ask what you were worried about. I asked can you identify any study that examines whether watchful waiting for children combined with psychotherapy results in better or worse outcomes on average than administering puberty blockers and

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social transition?

ATTORNEY BORELLI: Objection, form.

THE WITNESS: You know, I can't remember the exact study. We have studies that show that if you are not helping the patients relieve their gender dysphoria and psychotherapy has not been shown to do that, then we would be, you know, at an unethical point to do that study because it would increase risk of death in those patients for us to watch and wait.

BY ATTORNEY BROOKS:

Q. So your answer is at no time since the inception of this field, that is therapy for gender dysphoria, are you aware of any study comparing outcomes for gender dysphoric children of on the one hand watchful waiting accompanied by psychotherapy and on the other hand puberty blockers and social transitioning?

ATTORNEY BORELLI: Objection, form.

THE WITNESS: There's a long history of individuals who were left untreated or treated with psychotherapy who died in hospitals or not in hospitals because they were only given those therapies which were the only ones available at the time.

BY ATTORNEY BROOKS:

Q. Dr. Adkins, you are also aware, are you not,

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1 that there's a long history of individuals who have
2 transitioned both socially and hormonally who have
3 committed suicide?

4 ATTORNEY BORELLI: Objection to form.
5 BY ATTORNEY BROOKS:

6 **Q. That's well documented in the literature, is it
7 not?**

8 ATTORNEY BORELLI: Objection, form.

9 THE WITNESS: There are individuals who
10 still struggle with depression and anxiety to the point
11 that they are --- do commit suicide and they have not
12 necessarily the reason being related to their gender
13 dysphoria. Could be. Hard to know.

14 BY ATTORNEY BROOKS:

15 **Q. In fact, Skeemsma and colleagues at the
16 respected institute in Amsterdam, DeVry University, have
17 documented very high rates of successful completed
18 suicide among transgender adults, have they not?**

19 ATTORNEY BORELLI: Objection, form.

20 THE WITNESS: I would have to see the
21 study.

22 BY ATTORNEY BROOKS:

23 **Q. You are not aware of that information?**

24 A. I have not seen that study. I have read the

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1 specific reports. I am aware that that is an issue with
2 some people who have transitioned fully.

3 BY ATTORNEY BROOKS:

4 **Q. Do you believe that social transition is an
5 important part of medical care for transgender
6 individuals?**

7 ATTORNEY BORELLI: Objection, form.

8 THE WITNESS: Yes.

9 BY ATTORNEY BROOKS:

10 **Q. And do you also consider puberty blockers to be
11 part of treatment for children with gender dysphoria?**

12 ATTORNEY BORELLI: Objection to the form.

13 THE WITNESS: I have seen results from a
14 recent study that said that there was a decrease in
15 dysphoria. I think it was anxiety and depression. I
16 would have to double check the article, with puberty
17 blockers. Our goal with puberty blockers is to pause
18 and allow people to understand their identity and figure
19 out what is going on with that understanding and what is
20 the best care for that patient is.

21 BY ATTORNEY BROOKS:

22 **Q. Is the point of administering puberty blockers
23 to children who are experiencing gender dysphoria to
24 prevent puberty from occurring at the time that it**

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1 literature. I don't recall a study saying there was a
2 high or why. I would need a number.

3 BY ATTORNEY BROOKS:

4 **Q. You read Dr. Levine's report?**

5 A. Yeah, it was --- yes.

6 **Q. And do you recall that he cites multiple
7 studies, including studies from DeVry University team
8 documenting high rates of successful completed suicide,
9 not studies, he's done, that clinic has done documented
10 high rates of successful suicide among transgender
11 adults?**

12 ATTORNEY BORELLI: Objection, form.

13 THE WITNESS: I would need a number. I'm
14 not going to classify something as high just because ---
15 I would need a number.

16 BY ATTORNEY BROOKS:

17 **Q. Have you thought that it was incumbent upon you
18 somebody assisting young people to transition and
19 prescribing hormones to thoroughly investigation and
20 question suicidality among transitioned transgender
21 individuals?**

22 ATTORNEY BORELLI: Objection, form.

23 THE WITNESS: Again, yes. I read those
24 when I can. I am not good with recalling names in

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1 **naturally would occur in that child?**

2 ATTORNEY BORELLI: Objection, form.

3 THE WITNESS: In patients --- in patients
4 who are having early puberty it is a different
5 mechanism. For people with gender dysphoria where you
6 are trying to pause it and we keep it within the realm
7 of normal pubertal development.

8 BY ATTORNEY BROOKS:

9 **Q. For individuals suffering --- children suffering
10 from gender dysphoria the precise point of administering
11 puberty blockers is to prevent puberty from occurring in
12 that child at the time it would otherwise naturally
13 occur.**

14 **Correct?**

15 ATTORNEY BORELLI: Objection, form.

16 THE WITNESS: It would --- our pausing
17 the puberty and keeping it within the normal range of
18 pubertal development.

19 BY ATTORNEY BROOKS:

20 **Q. Dr. Adkins, the purpose of administering
21 pubertal blockers to a particular child is to prevent it
22 from happening when it would otherwise happen naturally
23 in that child.**

24 **Correct?**

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1 ATTORNEY BORELLI: Objection, form.

2 BY ATTORNEY BROOKS:

3 **Q. There is no other purpose?**

4 ATTORNEY BORELLI: Objection, form.

5 THE WITNESS: I'm sorry. I have to ask
6 --- you used some pronounced in there that were not real
7 clear. If you don't mind repeating the question.

8 BY ATTORNEY BROOKS:

9 **Q. The purpose of administering puberty blockers to**
10 **a child suffering from gender dysphoria is to prevent**
11 **puberty from happening in that child at the time it**
12 **would otherwise naturally occur in that child absent the**
13 **blockade?**

14 ATTORNEY BORELLI: Objection.

15 THE WITNESS: We are pausing their
16 puberty once it starts, putting a pause.

17 BY ATTORNEY BROOKS:

18 **Q. I get to ask the questions. That means you**
19 **wanted to prevent puberty from happening when it would**
20 **naturally happen for that child apart from the**
21 **medication?**

22 ATTORNEY BORELLI: Objection, form.

23 THE WITNESS: Yes.

24 BY ATTORNEY BROOKS:

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1 and side effects and my general experience and the
2 publications that are available. Goodness gracious.
3 Boy, that lunch is getting me.

4 I explain to my patients the effects and
5 side effects and I talk with them about whether --- my
6 experience has been I have had very few patients
7 experience a problem with the medication.

8 BY ATTORNEY BROOKS:

9 **Q. And if you are unwilling to sit here today and**
10 **admit that you tell parents that puberty blockers are**
11 **safe then why have you stated in your expert report to**
12 **the court that treatment, including puberty blockers,**
13 **are safe?**

14 ATTORNEY BORELLI: Objection, form.

15 THE WITNESS: Every patient is
16 individual. I have to make an individual assessment for
17 each patient. I will say it's safe for the patients
18 that that applies to.

19 BY ATTORNEY BROOKS:

20 **Q. Which patients does that apply to?**

21 A. Most of the patients don't have a
22 contraindication to using puberty blockers.

23 **Q. Is safe a term of art to you as a doctor?**

24 ATTORNEY BORELLI: Objection, form.

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1 **Q. Thank you.**

2 **You regularly tell parents that the**
3 **administration of puberty blockers for that purpose is,**
4 **quote, safe?**

5 **Correct?**

6 ATTORNEY BORELLI: Objection, form.

7 THE WITNESS: I go through very specific
8 list of side effects and effects with my patients with
9 that medication.

10 BY ATTORNEY BROOKS:

11 **Q. You regularly tell parents using the word that**
12 **puberty blockers are, quote, safe, do you not?**

13 ATTORNEY BORELLI: Objection, form.

14 THE WITNESS: I am telling my patients
15 the risks and benefits. I am telling them I feel
16 comfortable using it.

17 BY ATTORNEY BROOKS:

18 **Q. Let's find your report, which is Exhibit 1 ---**
19 **no --- yes, Exhibit 1. If you can find your report.**
20 **Apologize. Too much paper. Too long a day.**

21 **Dr. Adkins, do you or do you not tell parents**
22 **that puberty blockers are safe?**

23 ATTORNEY BORELLI: Objection, form.

24 THE WITNESS: Again, I review the effects

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1 THE WITNESS: I'm not sure what you mean
2 by the word art.

3 BY ATTORNEY BROOKS:

4 **Q. Does it have a precise meaning? To say a**
5 **pharmaceutical is safe, does that have a meaning to you**
6 **as a doctor?**

7 A. It has a meaning.

8 **Q. What is that?**

9 A. So in general when we're talking about safety
10 and medicine we're talking about limiting the number of
11 negative side effects that can cause significant issues
12 for patients. I think that would --- I think that's
13 what I would say.

14 **Q. Isn't it a truism you were taught in medical**
15 **school that every pharmaceutical has side effects?**

16 ATTORNEY BORELLI: Objection, form.

17 THE WITNESS: So truism is a word that
18 --- sorry, that is unclear to me. Can you clarify?

19 BY ATTORNEY BROOKS:

20 **Q. Weren't you taught in medical school that every**
21 **pharmaceutical has side effects?**

22 ATTORNEY BORELLI: Object to form.

23 THE WITNESS: Yes.

24 BY ATTORNEY BROOKS:

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1 **Q. And do you agree or disagree that a flat**
 2 **assertion that any pharmaceutical is safe is not**
 3 **consistent with accurate medical terminology?**

4 ATTORNEY BORELLI: Objection, form.

5 THE WITNESS: I would say that I work
 6 with what the information is available to me about
 7 safety profile. I apply that to each patient
 8 individually. Sometimes I feel safer using it in one
 9 patient versus another patient. Every drug is
 10 different, every side effect profile is different, every
 11 patient is different.

12 BY ATTORNEY BROOKS:

13 **Q. Why then did you flatly assert to the court that**
 14 **treatment for transgender youth when you were discussing**
 15 **puberty blockers and hormone therapies is, quote, safe?**

16 ATTORNEY BORELLI: Objection to form.

17 THE WITNESS: In general I have not
 18 experienced nor have I seen published experiences of
 19 issues with using these medications that causes a
 20 significant problem for my patients.

21 BY ATTORNEY BROOKS:

22 **Q. You regularly tell parents what you have said**
 23 **several times today, that puberty blockers act merely as**
 24 **a pause and are fully reversible, do you not?**

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1 ATTORNEY BORELLI: Objection, form.

2 THE WITNESS: I do.

3 BY ATTORNEY BROOKS:

4 **Q. And you are aware, are you not, that the**
 5 **Endocrine Society guidelines advise that before**
 6 **approving puberty blockers a clinician should discuss**
 7 **risks to fertility and the availability, the possibility**
 8 **of fertility preservation.**

9 **Correct?**

10 ATTORNEY BORELLI: Objection, form.

11 THE WITNESS: I'm not sure that is in the
 12 Endocrine Society guidelines with puberty blockers. It
 13 may be. That it is no part of the gender affirming
 14 hormone recommendation.

15 BY ATTORNEY BROOKS:

16 **Q. Let's look at page 3879 in the guidelines,**
 17 **Exhibit 4.**

18 A. What exhibit again, 4?

19 **Q. Exhibit 4. And I'm going to call your attention**
 20 **to 3879. And column two is guideline 1.5 where it says,**
 21 **quote, we recommend the clinicians inform and counsel**
 22 **all individuals seeking gender affirming medical**
 23 **treatment regarding options for fertility preservation**
 24 **prior to initiating puberty suppression in adolescence.**

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1 **Do you see that language?**

2 ATTORNEY BORELLI: Objection, form.

3 THE WITNESS: I do.

4 BY ATTORNEY BROOKS:

5 **Q. And what is your understanding as to why the**
 6 **Endocrine Society advises that it's important to advise**
 7 **about fertility preservation prior to initiating puberty**
 8 **suppression if puberty suppression is nearly nothing but**
 9 **a pause?**

10 ATTORNEY BORELLI: Objection, form.

11 THE WITNESS: Well, the --- you know,
 12 puberty pausing is in my experience and in the reported
 13 data always reversible. I have not ever had a patient
 14 who didn't resume their normal puberty when they came
 15 off and were on no other treatment of a puberty
 16 blockade. I would think that this is being very careful
 17 about young individuals getting puberty blockers.
 18 Again, I haven't seen any reports. In fact, it is used
 19 to preserve fertility in cancer patients.

20 BY ATTORNEY BROOKS:

21 **Q. Do you, in fact, counsel all parents and**
 22 **children about fertility preservation options before**
 23 **administering puberty blockers?**

24 ATTORNEY BORELLI: Objection, form.

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1 THE WITNESS: I do.

2 BY ATTORNEY BROOKS:

3 **Q. And do you have a view as to whether for**
 4 **instance a 9 year old can even begin to understand**
 5 **puberty, sexual development and the possibility of**
 6 **becoming a parent so as to provide meaningfully informed**
 7 **consent?**

8 ATTORNEY BORELLI: Objection, form.

9 THE WITNESS: So those individuals also
 10 have their parents who are with them to learn about
 11 these thing and weigh those things. The patient is not
 12 there in isolation. They get an option at the time
 13 where we would stop puberty blockers or any time that
 14 they are on to make a change in that. It is completely
 15 reversible.

16 BY ATTORNEY BROOKS:

17 **Q. You have testified at the beginning of the day**
 18 **you had children of your own. Both as a professional**
 19 **and as a mother do you have a view as to whether a 9**
 20 **year old can sufficiently understand puberty, sexual**
 21 **development and the possibility of becoming a parent to**
 22 **enable them to provide meaningfully informed consent?**

23 ATTORNEY BORELLI: Objection, form.

24 THE WITNESS: So in young kids we use

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these --- in five year olds --- I have treated a five year old this week with this medication for early puberty. I trust, based on the data that is available to me over the last 30 years using this medication to pause puberty for central precocious puberty that it is a safe medication and that the patient will be fertile. Can't say 100 percent because who knows what else is going on in each individual patient that may cause them to have an infertility issue.

BY ATTORNEY BROOKS:

Q. Dr. Adkins, puberty blocking drugs have gone through phase one, phase two, phase three clinical trials submitted to the FDA, reviewed. They've been approved for the indication of precocious puberty.

Correct?

ATTORNEY BORELLI: Objection, form.

THE WITNESS: Yes.

BY ATTORNEY BROOKS:

Q. None of that has been done for an indication of gender dysphoria to your knowledge.

Correct?

ATTORNEY BORELLI: Objection, form.

THE WITNESS: I use lots of medications that aren't FDA approved for the particular indications.

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the day. I'll be glad.

BY ATTORNEY BROOKS:

Q. Just to clarify, and I don't mean to harass you, but we've been asked to repeat it. Puberty blockers have been put through phase one, phase two, phase three clinical trials submitted to the FDA for the purpose of delaying precocious puberty in children until the normal time for puberty. And your answer was?

ATTORNEY BORELLI: Objection, form.

THE WITNESS: Yes.

BY ATTORNEY BROOKS:

Q. And they have not been tested for safety, for efficacy in phase one, phase two or phase three clinical trials for the purpose of delaying puberty from its naturally occurring time in children who do not suffer from precocious puberty.

Correct?

ATTORNEY BORELLI: Objection, form.

THE WITNESS: We use data that wasn't presented to the FDA to --- to look at this to see if it is safe. It's also been approved by the FDA to be used in adults. Also been used and approved for fertility preservation. Has lots of approvals that have verified its safety over time.

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Many drugs in pediatrics are not ever tested in children. It's just within the last few years that they have made a recommendation that that happen for a medication. So there are many drugs that haven't been FDA approved that are used in pediatrics based on information for patients in a different indication or adulthood.

Q. Puberty blockers have been tested through phase one, phase two, phase three clinical trials for the purpose of postponing precocious puberty until the normal time period for puberty.

Correct? That's what has been tested?

ATTORNEY BORELLI: Objection to form.

THE WITNESS: Yes.

BY ATTORNEY BROOKS:

Q. And no such tests have been done or submitted to the FDA ---?

COURT REPORTER: Can you repeat what you said because I'm not sure that last question fully came through.

ATTORNEY BROOKS: The last question was --- and I --- I admit that my voice, as the witness's, is dropping. We're trying here. And I --- Dave's resting his voice for a few questions towards the end of

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BY ATTORNEY BROOKS:

Q. Well, a moment ago when I asked you if you tell people they were safe you were not quite willing to say that. Do you want to revise that testimony?

ATTORNEY BORELLI: Objection, form.

THE WITNESS: I believe at the end of that I was saying to you that every patient is different. There are some that have risks. When I feel comfortable that my patient in front of me doesn't have those risks based on the medical literature I feel that they're safe to use. I have my experience. I have seen the literature. I feel --- yes.

BY ATTORNEY BROOKS:

Q. The law that's being challenged in this lawsuit doesn't restrict the use of puberty blockers so far as you understand, does it?

ATTORNEY BORELLI: Objection, form.

THE WITNESS: I don't recall that being part of the law.

BY ATTORNEY BROOKS:

Q. It doesn't exclude anyone for participation on any team based on use of puberty blockers, does it?

ATTORNEY BORELLI: Objection, form.

THE WITNESS: Not that I recall.

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1 BY ATTORNEY BROOKS:

2 **Q. And you have previously testified that in your**
 3 **view, the law is unreasonable if it excludes, prevents**
 4 **any individuals with a transgender identity from playing**
 5 **in the category that corresponds to their gender**
 6 **identity.**

7 **Correct?**

8 ATTORNEY BORELLI: Objection, form.

9 THE WITNESS: That sounds accurate.

10 BY ATTORNEY BROOKS:

11 **Q. I don't want to mischaracterize your opinion.**

12 **Okay.**

13 **So what is the relevance to your opinion that**
 14 **all the discussions in your report about puberty**
 15 **blockers?**

16 ATTORNEY BORELLI: Objection, form.

17 THE WITNESS: Sorry. I need some water.

18 And then, if you don't mind, while I'm doing that, could
 19 you please re-read the question. Sorry.

20 BY ATTORNEY BROOKS:

21 **Q. Yes. I'll even wait until you've had your**
 22 **drink.**

23 A. Sorry.

24 **Q. I'm hitting the bottom myself.**

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1 A. It's pollen season. It's bad.

2 **Q. It's just getting going.**

3 A. I know.

4 **Q. Given what we just walked through, ---**

5 A. Yes.

6 **Q. --- what is the relevance of all the discussion**
 7 **about puberty blockers in your expert report and**
 8 **rebuttal report to the opinions you're offering in this**
 9 **case?**

10 ATTORNEY BORELLI: Objection, form.

11 THE WITNESS: So my part of this is to
 12 talk about what care is for people who are transgender
 13 and what medications they might be on and what
 14 treatments might be ideal for them.

15 BY ATTORNEY BROOKS:

16 **Q. You've talked about how each --- you want to**
 17 **treat each patient differently. You want to be very**
 18 **careful about their treatment choices, their parents'**
 19 **treatment choices, that they understand all of the**
 20 **considerations.**

21 **Would it cause you concern if West Virginia put**
 22 **into place a law that created incentives or pressures on**
 23 **parents and children to make decisions about puberty**
 24 **blockers at an early stage?**

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1 ATTORNEY BORELLI: Objection, form.

2 THE WITNESS: I would not think it would
 3 be appropriate to pressure anyone.

4 BY ATTORNEY BROOKS:

5 **Q. So for instance, a law that said if you take**
 6 **puberty blockers then you can play on the girls team and**
 7 **if you don't you can't, that would cause you concern as**
 8 **a doctor, would it not?**

9 ATTORNEY BORELLI: Objection, form.

10 THE WITNESS: Ideally, they would be able
 11 to whether or not they have the puberty blockers or not
 12 play on the team that matches their gender identity.

13 BY ATTORNEY BROOKS:

14 **Q. And ideally and from your perspective and in**
 15 **fact if the law set up an incentive that says you can**
 16 **only play on the girls' team if you take puberty**
 17 **blockers, and if you don't, you're foreclosed from female**
 18 **athletics, that would cause you concern as a doctor as**
 19 **biasing the patient's and parents' decisions, would it**
 20 **not?**

21 ATTORNEY BORELLI: Objection, form.

22 BY ATTORNEY BROOKS:

23 **Q. That's not a law you would want to see on the**
 24 **books?**

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1 ATTORNEY BORELLI: Objection, form.

2 THE WITNESS: I don't think I would want
 3 to see that on the books. Haven't thought through every
 4 detail of that but I don't think so.

5 BY ATTORNEY BROOKS:

6 **Q. You are aware, are you not, that all the**
 7 **recommendations in the 2017 guidelines, also in the 2009**
 8 **guidelines from the Endocrine Society about the**
 9 **administration of puberty blockers is according to the**
 10 **committee that prepares those recommendation based on**
 11 **either low quality or very low quality evidence.**

12 **Right?**

13 A. You know, all recommendation put together are
 14 graded with evidence, and it's in the report --- we use
 15 them --- not in the report, in the guidelines. And we
 16 use lots of guidelines that have low quality to help
 17 guide our care.

18 **Q. Low quality evidence means that you, as a**
 19 **scientist, you as a doctor, can't be very confident that**
 20 **the recommendation will result in beneficial results.**
 21 **That is kind of the meaning of low quality evidence.**

22 **Right?**

23 ATTORNEY BORELLI: Objection to form.

24 THE WITNESS: I would suggest it gives us

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1 a place to start and we need to be very mindful when
2 using that information as to how we apply it.

3 ATTORNEY BORELLI:

4 Why don't we go ahead and take another
5 break?

6 ATTORNEY BROOKS: Let me just ask the
7 court reporter how many --- how much more time in the
8 seven o'clock hours.

9 COURT REPORTER: We're at six hours and
10 six minutes, so 54 minutes.

11 ATTORNEY BROOKS: Okay. We'll take that
12 break. Absolutely.

13 ---

14 (WHEREUPON, A PAUSE IN THE RECORD WAS HELD.)

15 ---

16 ATTORNEY BROOKS:

17 All right. We will resume.

18 BY ATTORNEY BROOKS:

19 **Q. Dr. Adkins, once again I will direct you to the**
20 **Endocrine Society guidelines, Exhibit 4, and ask you to**
21 **turn with me to page 3874 and column two --- column one,**
22 **I'm sorry 3874.**

23 A. Column ---?

24 **Q. Column one. And towards the bottom, penultimate**

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1 **paragraph begins in the future we need. Do you see**
2 **that?**

3 A. I do.

4 **Q. And it says in the future --- this is in the**
5 **preliminary section. Before the specific**
6 **recommendations it says, quote, in the future we need**
7 **more rigorous evaluations of the effectiveness and**
8 **safety of endocrine and surgical protocols. And it goes**
9 **on then to say specifically endocrine protocol ---**
10 **specifically endocrine treatment protocols for GD/gender**
11 **incongruence should include the careful assessment of**
12 **the following. And it lists a number of things, the**
13 **effective prolonged delay of puberty in adolescence on**
14 **bone health, gonadal function and the brain, including**
15 **effects on cognitive, emotional --- emotional, social**
16 **and sexual development.**

17 **Have I, with various corrections, read that**
18 **correctly?**

19 A. Yes.

20 **Q. So as of 2017, in the opinion of the committee**
21 **that put together these guidelines ---.**

22 COURT REPORTER: Excuse me. I don't know
23 if you're speaking, but I lost you at cognitive.

24 ATTORNEY BROOKS: I'm sorry?

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1 COURT REPORTER: I lost you at cognitive
2 and then I didn't hear anything for like 20 seconds. So
3 I wasn't sure if you were still talking since I can't
4 see you.

5 ATTORNEY BROOKS: Of course. And I was.
6 So, golly.

7 COURT REPORTER: Thank you.

8 BY ATTORNEY BROOKS:

9 **Q. So I'm going to pick up that question again.**

10 **In the paragraph that we're looking at in**
11 **column one of page 3874 the committee writes that things**
12 **that need to be better studied include, quote, the**
13 **effects of prolonged delay of puberty in adolescence on**
14 **bone health, gonadal function and the brain, including**
15 **effects on cognitive, emotional, social and sexual**
16 **development, closed quote.**

17 **Dr. Adkins, is it your understanding that the**
18 **committee here is saying that there's not yet adequate**
19 **scientific evaluation of the impact of puberty blockers**
20 **on the brain?**

21 ATTORNEY BORELLI: Objection, form.

22 THE WITNESS: So you know, the
23 recommendation by the same group is that in some
24 patients this is the approach that --- that is used.

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1 Certainly we all welcome more research. We all want to
2 know if anything is different from the information that
3 we have as mentioned before for use of this medication
4 in other areas where we're not seeing any effect on
5 these things.

6 BY ATTORNEY BROOKS:

7 **Q. Is it consistent with your understanding as a**
8 **doctor that the development of the brain in turn affects**
9 **cognitive, emotional, social and sexual development?**

10 ATTORNEY BORELLI: Objection, form.

11 THE WITNESS: The brain has effects in
12 all those areas.

13 BY ATTORNEY BROOKS:

14 **Q. To your knowledge, it has effects that change**
15 **across the course of puberty in all those areas.**

16 **Correct?**

17 ATTORNEY BORELLI: Objection, form.

18 THE WITNESS: Yes, they're all
19 interrelated and they're occurring all at the same time.

20 ATTORNEY BROOKS: Let me mark as Exhibit
21 21 a document that is titled Teenage Brain: A work in
22 Progress, which is an information sheet that is
23 attributes itself to the National Institute of Mental
24 Health, which I believe we discussed earlier. Tab 32.

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1 Yes, thank you. I'm sorry, I believe I said it, Exhibit
2 21.

3 ---

4 (Whereupon, Adkins Exhibit 21, NIMH
5 Information Sheet, was marked for
6 identification.)

7 ---

8 BY ATTORNEY BROOKS:

9 **Q. So I would like to talk for a moment about the**
10 **impact of puberty and therefore puberty blockade on**
11 **brain development. On the second page at the more**
12 **information, we see contact information at the National**
13 **Institute of Mental Health. And I don't want to**
14 **misrepresent, did you earlier testify that is a well**
15 **known and respected source of information about mental**
16 **health therapies?**

17 ATTORNEY BORELLI: Objection, form.

18 THE WITNESS: Yes.

19 BY ATTORNEY BROOKS:

20 **Q. And let me take you to page one. And I'm simply**
21 **using this to pin down a few kind of basic points. In**
22 **the second column out of three, two-thirds of the way**
23 **down, three-quarters of the way down --- well, the**
24 **sentence begins halfway down. In the first such**

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1 **thinking part of the brain happens sometime a bit after**
2 **the beginning of Tanner stage two according to this**
3 **description here?**

4 ATTORNEY BORELLI: Objection, form.

5 THE WITNESS: So let me read it myself.

6 BY ATTORNEY BROOKS:

7 **Q. Sure.**

8 A. What you read was --- it starts before that. So
9 I just want to read it.

10 **Q. I did misspeak. Let me just re-ask my question**

11 ---

12 A. Okay.

13 **Q. --- because I mixed up peaks and starts, right,**
14 **that was the problem.**

15 According to the description here this second
16 wave of development of the thinking part of the brain,
17 the gray matter, peaks at sometime after the beginning
18 of Tanner stage two?

19 ATTORNEY BORELLI: Objection, form.

20 THE WITNESS: Peaks, yes.

21 BY ATTORNEY BROOKS:

22 **Q. And is it consistent with your understanding**
23 **that the gray matter in the brain is the thinking part**
24 **of the brain or is that really outside your expertise**

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1 **longitudinal study of 145 children. Do you see that?**

2 A. I see that.

3 **Q. And it goes on to describe research that**
4 **discovered the second wave of overproduction of gray**
5 **matter, which it refers to as, quote, the thinking part**
6 **of the brain, just prior to puberty. Do you see that?**

7 A. I do.

8 **Q. And it goes on to say that this second**
9 **overproduction peaks at around age 11 in girls and 12 in**
10 **boys. Do you see that?**

11 A. Yes.

12 **Q. And according to your earlier testimony, that is**
13 **probably a bit into --- on average a bit into Tanner**
14 **stage two.**

15 **Correct?**

16 ATTORNEY BORELLI: Objection, form.

17 THE WITNESS: In general.

18 BY ATTORNEY BROOKS:

19 **Q. So a little later than the beginning of Tanner**
20 **stage two?**

21 ATTORNEY BORELLI: Objection, form.

22 THE WITNESS: Based on averages, yes.

23 BY ATTORNEY BROOKS:

24 **Q. So this second wave of development of the**

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1 **given that you're not a neurologist?**

2 ATTORNEY BORELLI: Objection, form.

3 THE WITNESS: I think that that is basic
4 enough in medical school that I can agree with that.

5 BY ATTORNEY BROOKS:

6 **Q. Okay.**

7 And in the next column, about the same distance
8 down it reads, quote, the gray matter spurt --- growth
9 spurt just prior to puberty --- we've already talked
10 about the timing, predominates in the frontal lobe,
11 which it goes on to say is the seat of, quote, executive
12 functions, planning, impulse control, and reasoning,
13 closed quote.

14 **Do you see that?**

15 A. I do.

16 **Q. And is it within your knowledge or not within**
17 **your knowledge that the frontal lobe is the seat of**
18 **executive functions, including planning, impulse control**
19 **and reasoning?**

20 ATTORNEY BORELLI: Objection, form.

21 THE WITNESS: That is what my education
22 has informed me.

23 BY ATTORNEY BROOKS:

24 **Q. And certainly all of us who have raised**

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1 children have gratefully seen that planning, impulse
2 control and reasoning improve across the years of
3 puberty.

4 Right?

5 ATTORNEY BORELLI: Objection, form.

6 BY ATTORNEY BROOKS:

7 Q. Maybe some ups and some downs?

8 A. I'm am just happy that it continuously improves
9 the whole time.

10 Q. I won't press --- I won't pres the question.

11 Have you, yourself, attempted to make any study of the
12 timing of brain gray matter development and the role of
13 puberty hormones in promoting that development?

14 ATTORNEY BORELLI: Objection, form.

15 THE WITNESS: I have not.

16 BY ATTORNEY BROOKS:

17 Q. What study, if any, have you made of the effects
18 of blocking puberty and the increased level of hormones
19 associated with puberty on this growth spurt in the
20 thinking part of the brain that otherwise peaks at
21 around 11 in girls and 12 in boys?

22 ATTORNEY BORELLI: Objection, form.

23 THE WITNESS: I have not done that study.

24 I don't see it here either.

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1 BY ATTORNEY BROOKS:

2 Q. You said in your rebuttal report, paragraph 24,
3 that patients with gender dysphoria who are treated with
4 puberty delaying medication undergo hormonal puberty
5 with all the same brain and other bodily system
6 development. Do you recall writing that?

7 ATTORNEY BORELLI: Objection, form.

8 THE WITNESS: I'm sorry, could you ---?

9 BY ATTORNEY BROOKS:

10 Q. Right in front of you. Your rebuttal report is
11 --- Exhibit 3?

12 A. I got it.

13 Q. Paragraph 24.

14 A. Thank you for your patience.

15 Q. Here, let me just find it. Let me see here.

16 And the second sentence says, quote, patients with
17 gender dysphoria treated with puberty delaying
18 medication undergo hormonal puberty with all the same
19 brain and other bodily system development, closed quote.
20 Do you see that?

21 A. Oh, wait. I must be looking at the wrong place.

22 Q. Paragraph 24, second sentence. It runs over the
23 page?

24 A. I see. I see. Yeah. I see that.

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1 Q. Now, all the same brain and bodily development
2 is a really big absolute statement, isn't it?

3 ATTORNEY BORELLI: Objection, form.

4 THE WITNESS: There are --- you know, for
5 the most part, people go through it in this manner. Of
6 course, again, with medicine you can't say 100 percent.
7 BY ATTORNEY BROOKS:

8 Q. Well, specifically, as a scientist, based on the
9 information available to you, you can't say with
10 confidence that patients who are treated with puberty
11 delaying medication undergo all the same brain and
12 bodily system development, can you?

13 ATTORNEY BORELLI: Objection, form.

14 THE WITNESS: I used the medication for
15 all of my career. I have followed patients through
16 their --- into their puberty, in their growth. When
17 they are done with their pubertal development, we have
18 not seen any definable cognitive developmental issues
19 with them. Haven't been able to identify that with any
20 of my patients, including precocious puberty. There's
21 not been any evidence in the literature over a year's
22 worth of use of this medication that there's anything
23 different happening to these individuals.

24 BY ATTORNEY BROOKS:

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1 Q. Well, you also haven't done any systematic study
2 of cognitive development of those for whom you have
3 prescribed puberty blockers as compared to in a control
4 group, have you?

5 ATTORNEY BORELLI: Objection, form.

6 THE WITNESS: Not personally.

7 BY ATTORNEY BROOKS:

8 Q. And the --- the Endocrine Society, 2017 --- let
9 me ask you to turn in Exhibit 4 to page 3882. And we
10 are in the section here that discusses a recommendation
11 to use GRNH for purposes of puberty suppression when
12 puberty suppression is indicated. Do you see that?
13 That heading is on the previous page.

14 A. I see that.

15 Q. Just wanted to locate you in the discussion
16 we're talking about puberty suppression. Now, back to
17 3882. And the first thing --- the first sentence under
18 the heading side effects states that, quote, the primary
19 risks of puberty suppression in GD/gender incongruent
20 adolescents may include and then it lists a number of
21 things, one of which is, quote, unknown effects on brain
22 development, closed quote. Do you see that?

23 A. I do.

24 Q. So the committee that put together the Endocrine

Society guidelines thought that the potential effects of puberty suppression on brain development were at 2017 at least unknown. You just disagreed?

ATTORNEY BORELLI: Objection, form.

THE WITNESS: I don't have any reason to believe that there's any different effect on individuals based on the research from early puberty and the studies that --- I mean, sorry, my experience with those patients. I would want to be watchful of those individuals as I would always who use any medication for potential issues.

BY ATTORNEY BROOKS:

Q. Endocrine Society thinks the effect on brain development is unknown and you, though you have done no systematic study, are of the view that you know that is not harmful to brain development. Am I accurately summarizing your testimony?

ATTORNEY BORELLI: Objection.

THE WITNESS: No.

BY ATTORNEY BROOKS:

Q. Let me ask it a different way if that was in accurate.

A. I am trying to tell you that you are able to look at the use of this medication in early pubertal

developments. The only source you cite in support of that is a 2015 article by Staphorsius.

Correct?

A. I would have to look at it and verify that.

Q. Forty-three (43).

A. Which exhibit were you ---?

Q. I have not given it to you yet. I apologize.

A. No, I mean ---.

Q. Oh, it was paragraph 24 in your rebuttal report, which is ---.

A. Okay.

Q. All right.

Did you carefully read the Staphorsius article that you cited in paragraph 24 of your rebuttal report?

A. At some point in time I have read that, yes.

Q. Are you able to describe the experiment that is --- the study that was done in this Staphorsius report --- or the Staphorsius article?

ATTORNEY BORELLI: Objection.

THE WITNESS: I'm not --- familiar ---.

BY ATTORNEY BROOKS:

Q. You say also in paragraph 24 of your rebuttal report that Dr. Levine's claims with regard to concern about brain development is, quote, inaccurate for the

patients and see what happens to those individuals. Those outcomes can be used to give you some inference as to what might potentially happen if you use it later on for the same purpose of delaying puberty. It doesn't --- doesn't wholly rule out something different.

Q. And indeed, simply based on observation, nonsystematic observations from one clinic, it's not possible to rule out harmful effects on brain development, is it?

ATTORNEY BORELLI: Objection, form.

THE WITNESS: I'm not sure that there's any study you could do to completely rule out any effect --- any specific effect. Lots of individuals have different effects.

BY ATTORNEY BROOKS:

Q. And you in your clinic haven't attempted any study?

ATTORNEY BORELLI: Objection, form.

THE WITNESS: I have not done a study.

BY ATTORNEY BROOKS:

Q. Let me have tab 43. In your report you asserted that those treated with gender dysphoria undergo --- I'm sorry, those treated with puberty delaying medication experience all the same brain and other bodily system

additional reason that some people never go through hormonal puberty such as patients with Turner syndrome and still have normal brain development with respect to cognition and executive function. Do you see that language?

A. Yes.

Q. And you don't cite anything for that. What is the basis for that assertion?

A. So when you look at the information regarding Turner syndrome within the medical literature as well as the --- my work with Marsha Gavenport at UNC who runs --- ran the biggest Turner syndrome registry, in that experience we did not see any patients that had problems with --- there may have been some that were --- had sort of issues with visual spatial skills but not cognitive issues. In fact, I have partners that are women with Turner syndrome that practice medicine.

Q. You will agree with me as a scientist, will you not, that kind of anecdotal information about a particular person you know is not very weighty evidence as to whether hormone changes associated with puberty are generally important to cognitive development of humans?

ATTORNEY BORELLI: Objection, form.

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1 THE WITNESS: We can delve into Turner
2 syndrome literature.

3 BY ATTORNEY BROOKS:

4 **Q. Well, Dr. Adkins, I hope you understand that**
5 **your obligation to prepare an expert report was to**
6 **provide your opinions and the basis of your opinions.**
7 **What literature are you relying on?**

8 ATTORNEY BORELLI: Objection, form.

9 THE WITNESS: Every textbook that talks
10 about Turner syndrome with regard to these patients
11 talks about any of the issues that go along with that.
12 I --- and that's something we study in our training as a
13 pediatric endocrinologists because we see these patients
14 routinely. So that has been my experience and training.
15 BY ATTORNEY BROOKS:

16 **Q. Well, can you identify --- every is not very**
17 **useful. Can you identify for me a single source that**
18 **reports based on statistically significant studies that**
19 **individuals who never go through puberty experience all**
20 **the same brain development as individuals who do go**
21 **through puberty?**

22 ATTORNEY BORELLI: Objection, form.

23 THE WITNESS: I would have to look back
24 in the literature on those reports because we treat

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1 patients now when we realize they are not going through
2 puberty. I can't do that off the top of my head.

3 BY ATTORNEY BROOKS:

4 **Q. And are you now contending that it is not widely**
5 **accepted that hormonal changes associated with puberty**
6 **drive important stages of brain growth?**

7 ATTORNEY BORELLI: Objection, form.

8 THE WITNESS: I'm not saying that. What
9 I'm saying is there are some things that are specific
10 and you're generalizing my terms.

11 BY ATTORNEY BROOKS:

12 **Q. Okay.**

13 **Well, flipping it around, you have also been**
14 **taught whether or not it's --- if we're speaking in the**
15 **area, I recognize you're not a neurologist.**

16 **Correct?**

17 A. Correct.

18 **Q. But it's your understanding that hormonal**
19 **changes associated with puberty do drive important**
20 **developmental stages in the human brain.**

21 **Correct?**

22 ATTORNEY BORELLI: Objection, form.

23 THE WITNESS: Yes.

24 BY ATTORNEY BROOKS:

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1 **Q. And those are stages that, as we looked at in**
2 **earlier document, include cognition, social skills,**
3 **sexual development?**

4 ATTORNEY BORELLI: Objection, form.

5 THE WITNESS: So you know, that is what
6 is --- was written there. I agree that that can be
7 affected by those --- by puberty. I also don't see in
8 any of the literature around people who haven't gone
9 with --- through puberty any mention of any of the
10 concerning cognitive delays or other issues, again
11 visual, spatial has been mentioned.

12 BY ATTORNEY BROOKS:

13 **Q. Visual spatial, can you just --- for the**
14 **uninitiated, the layman, can you explain what you're**
15 **referring to?**

16 A. For the use of like driving a car, looking at
17 something and being able to estimate where it is or
18 those sorts of things, navigating with a map versus not.

19 ATTORNEY BROOKS: Let me ask the court
20 reporter how many minutes we still have on the clock.

21 COURT REPORTER: We're at six hours, 31
22 minutes, so 29.

23 ATTORNEY BROOKS: Well, I had promised to
24 hand it over with 30 minutes to go, so I have broken my

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1 word. And I will stop and leave the remainder of the
2 time to counsel for the State of West Virginia, Dave
3 Tryon.

4 ---

5 EXAMINATION

6 ---

7 BY ATTORNEY TRYON:

8 **Q. Hello, Dr. Adkins. Long day. I appreciate your**
9 **time. My name is David Tryon and I do represent the**
10 **State of West Virginia. I would like just to ---.**

11 A. You're cutting out.

12 **Q. Okay.**

13 ATTORNEY BROOKS: You are going to have
14 to speak up very clearly because you are literally
15 disappearing half of the time and we have no work around
16 for that.

17 BY ATTORNEY TRYON:

18 A. Okay.

19 I will speak very loudly. Can you hear me now?

20 A. Yes.

21 **Q. Okay.**

22 **So thank you for your time my. Name is David**
23 **Tryon. I am an attorney for the State of West Virginia.**
24 **I would like to continue with some questions about your**

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1 **rebuttal report. Do you still have that in front of**
2 **you?**

3 A. Yes.

4 **Q. Okay.**

5 **First of all, you have indicated that you are**
6 **--- I'm still here --- give me a moment --- you run a**
7 **clinic.**

8 **Correct?**

9 ATTORNEY BORELLI: Objection, form.

10 THE WITNESS: I have a clinic that I'm
11 the medical director of, yes.

12 BY ATTORNEY TRYON:

13 **Q. And that is --- I'm sorry, what's the name of**
14 **the clinic again?**

15 A. Duke Child and Adolescent Gender Clinic.

16 **Q. What is a gender care clinic?**

17 A. For our purposes in my clinic it includes
18 patients who are transgender people who are --- also
19 have intersex conditions as well.

20 **Q. Are there other clinics that you consider gender**
21 **care clinics elsewhere in the country?**

22 A. Yes.

23 **Q. Would you be able to estimate approximately how**
24 **many of them there are?**

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1 A. That number is changing a lot. It would be
2 difficult for me to say accurately.

3 **Q. Would it be over 100?**

4 A. I'm not sure. I'm not sure.

5 **Q. Would it be over 50?**

6 A. Oh, it could be definitely over 50. It could be
7 over 100, but I'm not sure.

8 **Q. And are you --- do you have any meetings with**
9 **those other gender care clinics?**

10 ATTORNEY BORELLI: Objection, form.

11 THE WITNESS: Yes.

12 BY ATTORNEY TRYON:

13 **Q. How many --- what fashion --- are those**
14 **individual meetings or are they group meetings?**

15 A. A bit of both.

16 **Q. Are you aware of the practices of all of those**
17 **other gender care clinics?**

18 ATTORNEY BORELLI: Objection, form.

19 THE WITNESS: We do talk about practice
20 when we meet with the ones that I meet with. Can't
21 speak to all of the others.

22 BY ATTORNEY TRYON:

23 **Q. You are of course familiar with the practices in**
24 **your clinic.**

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1 **Correct?**

2 A. Yes.

3 **Q. Are you equally familiar with the practices of**
4 **the other gender care clinics throughout the country?**

5 ATTORNEY BORELLI: Objection, form.

6 THE WITNESS: I know a lot about them. I
7 can't say I know everything.

8 BY ATTORNEY TRYON:

9 **Q. Do you know if they have the exact same**
10 **standards of care and practice that your clinic does?**

11 ATTORNEY BORELLI: Objection, form.

12 THE WITNESS: We all have discussed that
13 we follow the Endocrine Society guidelines as well as
14 WPATH guidelines.

15 BY ATTORNEY TRYON:

16 **Q. You have disagreed with some of the guidelines**
17 **in the WPATH guidelines that Mr. Brooks has shown to**
18 **you.**

19 **Correct?**

20 ATTORNEY BORELLI: Objection, form.

21 THE WITNESS: I don't think I've seen the
22 WPATH guidelines today.

23 BY ATTORNEY TRYON:

24 **Q. Sorry, the Endocrine Society guidelines?**

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1 ATTORNEY BORELLI: Same objection.

2 THE WITNESS: So the Endocrine Society
3 guidelines are guidelines. All of us who use guidelines
4 do vary some from those guidelines when it's appropriate
5 for the particular patient.

6 BY ATTORNEY TRYON:

7 **Q. Do you know if the other clinics have the same**
8 **reservations about the policies or guidelines in those**
9 **--- in the endocrine Society's guidelines that you've**
10 **expressed today?**

11 ATTORNEY BORELLI: Objection, form.

12 THE WITNESS: I've had some discussions
13 with people who have some reservations along the same
14 lines that I do.

15 BY ATTORNEY TRYON:

16 **Q. How many clinics does that represent?**

17 A. Oh, you went out. You went out. Sorry.

18 **Q. How many clinics does that represent?**

19 ATTORNEY BORELLI: Objection, form.

20 THE WITNESS: It's difficult for me to
21 say because it is at our annual meeting and for some of
22 the meetings, so it could be a lot. In group meetings
23 that we have, I have some that are one on one and I have
24 some that are about five different groups.

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1 BY ATTORNEY TRYON:

2 **Q. So fair to say you don't know?**

3 A. I'm sorry, you broke up again.

4 **Q. Is it fair to say you do not know?**

5 ATTORNEY BORELLI: Objection, form.

6 THE WITNESS: I do not know what?

7 BY ATTORNEY TRYON:

8 **Q. You do not know which ones have the same**
 9 **reservations that you do about the provisions you've**
 10 **expressed reservations about today?**

11 ATTORNEY BORELLI: Objection, form.

12 THE WITNESS: I know --- I know --- I
 13 know off the top of my head three. The others I may or
 14 may not know where an individual is from when they're
 15 talking in all of our meetings. They are big meetings.

16 BY ATTORNEY TRYON:

17 **Q. What are those three?**

18 A. So Rady Children's in Los Angeles and in
 19 Seattle, Children's and Texas, Children's.

20 BY ATTORNEY TRYON:

21 **Q. Are there any gender care clinics in West**
 22 **Virginia?**

23 ATTORNEY BORELLI: Objection to form.

24 THE WITNESS: I don't know personally any

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1 A. I'm sorry. I wrote it --- I'm sorry. I'm
 2 getting really tired. I apologize. I wrote it.

3 **Q. In the --- I believe it is the third sentence**
 4 **says no medical treatment is provided to transgender**
 5 **youth until they have reached Tanner stage two. Do you**
 6 **see that?**

7 A. I do.

8 **Q. When you say no medical treatment, is that ---**
 9 **does that include affirmation therapy?**

10 ATTORNEY BORELLI: Objection, form.

11 THE WITNESS: I am not aware of anything
 12 called affirmation therapy.

13 BY ATTORNEY TRYON:

14 **Q. Are you aware of the term affirmation for**
 15 **transgender individuals?**

16 ATTORNEY BORELLI: Objection, form.

17 THE WITNESS: Gender affirming care is a
 18 term I am aware of.

19 BY ATTORNEY TRYON:

20 **Q. Do you consider gender affirming care to be**
 21 **medical treatment?**

22 ATTORNEY BORELLI: Objection, form.

23 THE WITNESS: So it is meant to be
 24 wholistic, so part of it is medical, part of it is

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1 endocrinologists that do pediatric endocrinology or
 2 gender care in West Virginia. I'm not aware.

3 BY ATTORNEY TRYON:

4 **Q. In the rebuttal report, your paragraph 11, I'd**
 5 **like to ask you some questions about that. If you would**
 6 **turn there.**

7 A. I got it.

8 **Q. When did you --- well, did you write this**
 9 **paragraph 11?**

10 ATTORNEY BORELLI: Objection, form.

11 THE WITNESS: Yes.

12 BY ATTORNEY TRYON:

13 **Q. When did you write it?**

14 ATTORNEY BORELLI: Objection, form.

15 THE WITNESS: I don't remember.

16 BY ATTORNEY TRYON:

17 **Q. Was it after you received the expert reports**
 18 **from the Plaintiff's experts --- excuse me, from the**
 19 **Defendant's experts?**

20 ATTORNEY BORELLI: Objection, form.

21 THE WITNESS: So we wrote the rebuttal
 22 after we received the expert witnesses from --- yes.

23 BY ATTORNEY TRYON:

24 **Q. Who is we?**

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1 social, part of it is surgical.

2 BY ATTORNEY TRYON:

3 **Q. Is any gender affirming care provided to**
 4 **transgender youth before they reach Tanner stage two?**

5 ATTORNEY BORELLI: Objection, form.

6 THE WITNESS: So the social transition is
 7 considered part of gender affirming care and some
 8 individuals do socially transition before Tanner stage
 9 two.

10 BY ATTORNEY TRYON:

11 **Q. Do you assist them in that?**

12 ATTORNEY BORELLI: Objection, form.

13 THE WITNESS: Not typically. They're not
 14 usually in my clinic until they are in puberty.

15 BY ATTORNEY TRYON:

16 **Q. Is there any other type of gender affirming care**
 17 **which is conducted or provided prior to Tanner stage**
 18 **two?**

19 ATTORNEY BORELLI: Objection, form.

20 THE WITNESS: Before Tanner stage two
 21 generally it's -- no --- no. No.

22 BY ATTORNEY TRYON:

23 **Q. What do you consider to be medical treatment**
 24 **which is provided once they reach Tanner stage two?**

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1 ATTORNEY BORELLI: Objection, form.

2 THE WITNESS: Not every patient is
3 treated with medication. So some do, some don't.
4 Sometimes that is puberty blockers. Sometimes it is
5 not. Sometimes it is gender affirming hormones
6 depending on where they're in their development.

7 BY ATTORNEY TRYON:

8 **Q. What about surgery, is that considered medical**
9 **treatment provided to transgender youth?**

10 ATTORNEY BORELLI: Objection, form.

11 THE WITNESS: So patients who are
12 children aren't having surgeries.

13 BY ATTORNEY TRYON:

14 **Q. What's the difference between youth and**
15 **children?**

16 ATTORNEY BORELLI: Objection, form.

17 THE WITNESS: Youth in general in my mind
18 are somewhat similar to adolescents in that they have
19 started puberty.

20 BY ATTORNEY TRYON:

21 **Q. At what point are --- is --- excuse me, at what**
22 **point or age is surgery, medical treatment, provided to**
23 **those who have gender dysphoria or considered to be**
24 **transgender?**

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1 ATTORNEY BORELLI: Objection, form.

2 THE WITNESS: So you cut out and could
3 you repeat the question?

4 BY ATTORNEY TRYON:

5 **Q. Yes. Let me back up and make sure I understand.**
6 **Surgery is considered medical treatment.**
7 **Correct?**

8 ATTORNEY BORELLI: Objection, form.

9 THE WITNESS: So I hesitate to use those
10 words. My surgical colleagues would take some offense
11 at that. They consider themselves surgeons and not
12 medicine doctors. So I think that's an opinion there.
13 So I'm not sure that that phrase is appropriate.

14 BY ATTORNEY TRYON:

15 **Q. So when you refer to medical treatment in this**
16 **statement does that include or exclude surgery?**

17 ATTORNEY BORELLI: Objection, form.

18 THE WITNESS: They do not --- yeah, that
19 would be inclusive of surgery in that particular
20 statement.

21 BY ATTORNEY TRYON:

22 **Q. At what point is surgery provided to transgender**
23 **persons?**

24 ATTORNEY BORELLI: Objection, form.

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1 THE WITNESS: Well, not all individuals
2 who are transgender actually have surgery. It depends
3 on the patient. Many, many do not. Our recommendations
4 are to wait until 18. There is a caveat in the
5 Endocrine Society guidelines where some surgery could
6 happen between 16 and 18, but generally 18 and up.
7 BY ATTORNEY TRYON:

8 **Q. Why wait until 18?**

9 ATTORNEY BORELLI: Objection, form.

10 THE WITNESS: That is the --- as I
11 understand it, the legal time at which a person has ---
12 what is the word for it? You all are the legal people.
13 I'm probably going to say it wrong, the ability to
14 legally consent to things. Prior to that, we do get
15 what's called an assent from the patient, but it's a
16 little different than a consent from the patient if
17 we're doing a general procedure.

18 BY ATTORNEY TRYON:

19 **Q. Why is that legal consent different for surgery**
20 **then it is for puberty blockers?**

21 ATTORNEY BORELLI: Objection, form.

22 THE WITNESS: As I mentioned before,
23 puberty blockers aren't a permanent effect and surgery
24 is complicated to reverse.

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1 BY ATTORNEY TRYON:

2 **Q. At the point in time that you prescribe puberty**
3 **blockers for a natal male, that person has at that point**
4 **concluded that they have a gender identity of female.**

5 **Correct?**

6 ATTORNEY BORELLI: Objection, form.

7 THE WITNESS: So for puberty blockers
8 they may not totally be clear on their gender identity.
9 They do have dysphoria with the changes that are
10 happening to their body at the time and need time to get
11 a better understanding of their gender identity.

12 BY ATTORNEY TRYON:

13 **Q. At what point do we know that they have a full**
14 **understanding of their gender identity?**

15 ATTORNEY BORELLI: Objection, form.

16 THE WITNESS: Again, we do our best to
17 take each patient as they get older and they are
18 consistent for a period of time. Again, the
19 recommendation are at least six months. Everyone is
20 different. Most of my patients' identity isn't changing
21 substantially. Their understanding of their identity
22 isn't changing substantially for longer than that before
23 one would do anything different other than puberty
24 blockers.

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1 BY ATTORNEY TRYON:

2 **Q. At what point --- someone comes to you and says**
 3 **I am a biological male or assigned male at birth,**
 4 **however you want to term that, but I identify it as a**
 5 **--- let me rephrase that because I'm not sure I said**
 6 **that right.**

7 **Someone comes to you and says I was born an**
 8 **assigned male at birth, but I identify as a female. I**
 9 **have identified as a female for two years now and I want**
 10 **to move forward with any treatment possible so that I**
 11 **can feel comfortable with my true identity as a female.**
 12 **You accept that as their true identity?**

13 ATTORNEY BORELLI: Objection, form.

14 THE WITNESS: You didn't give an age and
 15 I do way that into consideration.

16 BY ATTORNEY TRYON:

17 **Q. Let's say a ten year old?**

18 ATTORNEY BORELLI: Objection, form.

19 THE WITNESS: So we as I mentioned in my
 20 earlier testimony also use assessments from other
 21 individuals with regard to the consistency of their
 22 gender identity and including family as well as their
 23 mental health providers and we would provide
 24 individualized care based on that patient.

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1 BY ATTORNEY TRYON:

2 **Q. At that point do you actually give a diagnosis**
 3 **that they are their true gender identity is female or**
 4 **what happens?**

5 ATTORNEY BORELLI:

6 Objection, form.

7 THE WITNESS: Again, gender identity is a
 8 core part of their being and their understanding of it
 9 at the time is their understanding of it at the time and
 10 that is the only way that we can decide what someone's
 11 gender identity is.

12 BY ATTORNEY TRYON:

13 **Q. So at that point in time where the child is 10**
 14 **or 12 or 14, at that point in time where they have**
 15 **concluded my true gender identity is not my natal sex of**
 16 **male but rather my true gender identity is a female, why**
 17 **shouldn't that child then be able to say I want gender**
 18 **--- I want surgery to remove my penis?**

19 ATTORNEY BORELLI: Objection, form.

20 THE WITNESS: So we don't want to do
 21 anything that's permanent until a person is older and
 22 their cognitive development is broader. And in some
 23 cases, you know --- well, I'll stop there.

24 BY ATTORNEY TRYON:

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1 **Q. If that child says, this is extremely harmful to**
 2 **me to still have my penis at this age, I want it**
 3 **removed, and you said yourself that is extremely harmful**
 4 **to not allow this child to not play on a sports team**
 5 **with which that child identifies, isn't having a penis**
 6 **when the child doesn't want one even more harmful?**

7 ATTORNEY BORELLI: Objection, form.

8 THE WITNESS: I think they're both ---
 9 those situations could cause a risk for self harm and
 10 suicide. We would not like to do something that is
 11 permanent. Playing on a sports team is not something
 12 that is unchangeable.

13 BY ATTORNEY TRYON:

14 **Q. But you told me, you told us, that gender is**
 15 **unchangeable and that child at that point has**
 16 **identified as a female. And since that is not going to**
 17 **change what is the harm in removing that child's penis?**

18 A. You broke up after what is the harm in removing
 19 that child.

20 **Q. That child's penis?**

21 ATTORNEY BORELLI: Objection, form.

22 THE WITNESS: I stated that their
 23 understanding of their gender identity occurs over the
 24 lifespan and so we want to be very careful with regard

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1 to that --- any permanent treatment.

2 BY ATTORNEY TRYON:

3 **Q. So you're saying you don't --- you're saying you**
 4 **don't believe that that child's true identity is a**
 5 **female, true gender identity is a female, you doubt that**
 6 **child?**

7 ATTORNEY BORELLI: Objection, form.

8 THE WITNESS: I don't doubt what my
 9 patients tell me because --- what they tell me is their
 10 truth and their identity. I do like --- think it is
 11 important when you are making these decisions to again
 12 corroborate that with other individuals who are with the
 13 family --- I'm sorry, with the person. And we want to
 14 make sure that that is a durable place where their
 15 understanding is. Ideally, we would like for it to be
 16 as understood as it might be before making a decision
 17 that is a permanent decision like surgery.

18 VIDEOGRAPHER: Mr. Tryon, I sent you a
 19 chat, I didn't know if you saw that. I just wanted to
 20 give a five-minute warning.

21 ATTORNEY TRYON: Oh, it's five minutes
 22 left? Thank you. I did not see that. One moment.

23 BY ATTORNEY TRYON:

24 **Q. You are getting paid as an expert witness in**

1 **this case right?**

2 ATTORNEY BORELLI: Objection, form.

3 THE WITNESS: Yes.

4 BY ATTORNEY TRYON:

5 **Q. Are you being paid as an expert witness in**
6 **connection to any other litigation or testimony or any**
7 **other statutes --- similar statutes?**

8 ATTORNEY BORELLI: Objection, form.

9 THE WITNESS: I am --- have not been
10 paid. I am involved in other --- another case, two
11 cases.

12 BY ATTORNEY TRYON:

13 **Q. What are those other two cases?**

14 A. I'm not going to be able to tell you the name
15 because I'm terrible with names. It involves
16 transgender care in Arkansas as well as in
17 sports-related issues with transgender youth in Florida.

18 **Q. Have you testified in those cases yet?**

19 A. I have not.

20 **Q. You testified in other cases.**

21 **Right?**

22 A. You broke up again. Could you repeat?

23 **Q. You have testified in other cases.**

24 **Right?**

1 A. Yes.

2 **Q. Which cases are those?**

3 A. The transgender-related cases were with Adams in
4 Florida. Why am I blanking?

5 **Q. Connecticut?**

6 A. I did not actually --- I have not been deposed
7 in --- except for Adams.

8 **Q. Okay.**

9 **In your --- in your expert report you say that**
10 **I have testified twice as an expert at trial or**
11 **deposition.**

12 A. Yeah, I was involved in another case as an
13 expert witness and was deposed for a case involving an
14 infant with fractures that were --- there was concern
15 for abuse.

16 **Q. I'm sorry, you froze on me. Can you tell me**
17 **what that was again?**

18 A. Yeah. There was a case that I was involved with
19 where the patient's parents --- they had concern for
20 abuse from the parents because the child had fractures.

21 **Q. Well, I'm running out of time, so let me glance**
22 **through my notes and see if there is anything else. Do**
23 **you disagree with the policies of the other agents ---**
24 **excuse me, of the sporting organizations which require a**

1 **delay in time before a transgender female can**
2 **participate in those sports?**

3 ATTORNEY BORELLI: Objection, form.

4 THE WITNESS: I think it would be better
5 for the patient if they did not have to delay.

6 BY ATTORNEY TRYON:

7 **Q. So you --- if it was up to you, you would**
8 **eliminate that delay that is required by these other**
9 **sports organizations.**

10 **Is that right?**

11 ATTORNEY BORELLI: Objection, form.

12 THE WITNESS: I think it would be better
13 for my patients. Yes.

14 BY ATTORNEY TRYON:

15 **Q. And you think those organizations should change**
16 **their policies to satisfy what your concern is?**

17 ATTORNEY BORELLI: Objection, form.

18 THE WITNESS: You know, there is a lot to
19 weigh there. I am not sure that I would be able to like
20 say for their purposes. I don't know all of the things
21 that are there. For my patients what would be best for
22 them is to not to have to have that delay.

23 BY ATTORNEY TRYON:

24 **Q. But would you agree with me that the State of**

1 **West Virginia had a lot to weigh as well when it put in**
2 **place its legislation before they passed the law?**

3 ATTORNEY BORELLI: Objection. Objection,
4 form.

5 THE WITNESS: I would hope that every
6 piece of legislation is weighed heavily.

7 BY ATTORNEY TRYON:

8 **Q. And you would agree that in this case there was**
9 **a lot to weigh on a number of different issues before**
10 **they passed the law.**

11 **Correct?**

12 ATTORNEY BORELLI: Objection, form.

13 THE WITNESS: I would agree. And I
14 wasn't there to know what was, so I agree there should
15 be.

16 BY ATTORNEY TRYON:

17 **Q. I'm sorry. I didn't catch that. You froze up.**
18 **Can you repeat that?**

19 A. Sure. I agree there should have been. I wasn't
20 there to hear what happened with regard to the process,
21 so I don't know if they actually did that.

22 ATTORNEY TRYON:

23 Thank you. Do I have any time left,
24 Jacob?

1 VIDEOGRAPHER: I think that's the cap.

2 ATTORNEY TRYON: Okay.

3 Dr. Adkins, thank you very much for your
4 time. Appreciate it.

5 ATTORNEY BORELLI: This is Tara Borelli
6 for Plaintiff, B.P.J.. Plaintiff has no questions for
7 the witness. We will read and sign.

8 VIDEOGRAPHER: That concludes this
9 deposition. Current time reads 5:56 p.m. Eastern
10 Standard Time.

11 * * * * *

12 VIDEOTAPED DEPOSITION CONCLUDED AT 5:56 P.M.

13 * * * * *

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